

Censorship in Late Nineteenth-Century Britain

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Declaration

I hereby declare that this thesis is of my own composition, and that it contains no material previously submitted for the award of any other degree. The work reported in this thesis has been executed by myself, except where due acknowledgement is made in the text.

Abstract

In his 1859 work, *On Liberty*, John Stuart Mill asserts that '[i]n our times, from the highest class of society down to the lowest, every one lives as under the eye of a hostile and dreaded censorship.' For Mill, this censorship was implemented not by official institutions, but by social opprobrium, by a less explicit, but no less devastating public opinion.

My thesis provides an account of late nineteenth-century censorship that does not rely on traditional dichotomised models. These models present censorship as a Manichaean struggle between an aggressive censor and a silenced victim. Mill's observation provides a starting point for looking at censorship as a regulatory mechanism that is more diffused and mobile than such rigid binaries suggest. I look at instances of censorship in literature, the visual arts, and other disciplinary fields, placing them in wider social, political, cultural, and intellectual contexts.

I take into account recent scholarship which has challenged traditional models on theoretical grounds. These recent developments are useful for investigating particular instances of censorship, but conversely, these instances, despite their specificity, can also provide insights into, and elucidation of, the theories themselves. By moving beyond a static understanding of censorship as silencing and repression, I redress conventional assumptions about Victorian society and popular myths of a draconian regime, while also reassessing the concept of censorship itself.

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Introduction

Censorship in Late Nineteenth-Century Britain

Writing in 1859, John Stuart Mill asserts that '[i]n our times, from the highest class of society down to the lowest, every one lives as under the eye of a hostile and dreaded censorship.'¹ Mill's statement controversially and emphatically characterises his epoch as one of pervasive censorship, an allegation echoed to some degree by writers against the late-century literary field. Mill's fiery descriptors seem ostensibly incongruous in an age of liberal democracy, just as the writer's plaint may seem redundant at a time when pre-publication censorship had long been abolished. Yet the term itself had obvious purchase for these commentators, who reconfigured a concept with historically pejorative associations for polemical usage in the nineteenth century. These issues form the core of this thesis, which looks at the practices and conditions that spurred these commentators to such contentions. Central to this investigation are the questions of what censorship was, how it was manifest, and how it was perceived in the latter half of the century.

Mill's blanket statement is an unequivocal indictment of nineteenth-century society, yet it belies the extent to which censorship itself operated in multifarious and not easily identifiable ways. Superficially, the issue of what censorship is seems straightforward enough: in the most basic sense, censorship refers to the criminal prosecution or the suppression of offensive and illicit publications or articulations. Yet Mill's usage already points to a more diffuse form of control beyond official regulatory authorities. The dynamic between institutions of control, such as the police or criminal law, less overt forms of regulation, such as the economic

¹ John Stuart Mill, *On Liberty, The Collected Works of John Stuart Mill*, ed. John M. Robson, vol. 18 (London: Routledge, 1977) 264. The *Collected Works* will henceforth be cited in-text as *CW*.

constraints of the marketplace, and more dispersed forms of influence, such as Mill's public opinion, created specific contexts in which certain things could be written or said. These forms of control not only had implications for the literary field, the visual arts, and society in general, but also for the concept of censorship itself. At issue is not just how censorship was exercised but more constitutively, what censorship was, and its value not just as a descriptive, but as an ascriptive category; indeed, this conundrum was one with which commentators of the day also grappled, as will be evident in the chapters that follow.²

Traditional histories of censorship focus on legal forms of constraint through an elaboration of statutes, key trials, and prosecutions.³ While not denying the role of legal history in an account of censorship, to treat offence solely as a violation of law fails to consider the multiple discursive and material positions a publication occupies. The book, for instance, is in turns a physical object of printed pages, a commodity in the marketplace, the result of artistic labour, a carrier of germs (as the *Lancet* warns the library patron), or a symptom of degeneration (as in Max Nordau's diagnostics).⁴ In these various guises, the book was subject to additional forces and manipulations, sometimes contradictory ones, in addition to charges of obscenity. There is also a tendency, especially in earlier studies, to map an emancipatory trajectory from the tyranny of capricious censorships in early modern society to the divesting of these in the twentieth century.⁵ Conceptually, such accounts set up an opposition between the law and the accused, between the censor and the censored, such that tracing the history of censorship becomes in effect the mapping out of an ongoing contest between these two opponents. This dichotomised model of censorship, presupposing distinct and identifiable subjects and objects of censorship,

² I take the terms 'ascriptive' and 'descriptive' from Frederick Schauer, who argues that censorship masquerades as descriptive analysis, when in fact it operates as an ascriptive category: censorship 'does not describe a category of conduct, but rather attaches an operative conclusion (ascribes) to a category created on other grounds' ('The Ontology of Censorship,' *Censorship and Silencing*, Post 160).

³ See, for example, Alec Craig, *The Banned Books of England and Other Countries: A Study of the Conception of Literary Obscenity* (London: Allen and Unwin, 1962); Donald Thomas, *A Long Time Burning: The History of Literary Censorship in England* (London: Routledge, 1969); David Tribe, *Questions of Censorship* (London: Allen and Unwin, 1973).

⁴ These issues will be dealt with in greater detail in the chapters that follow.

⁵ John Sutherland, for example, refers to the process of 'decensorship' as part of a general trend of cultural liberalisation in Britain in the 1960s and 70s (*Offensive Literature: Decensorship in Britain 1960-1982* (London: Junction Books, 1982)).

in turn invokes a familiar set of binaries in the discourse of western liberalism: freedom and oppression; democracy and despotism; creativity and destruction. Yet these terms were themselves subject to negotiation, as I will show in my discussion of Mill and literary polemicists, and the binary distinctions untenable.

These accounts perpetuate what Michel Foucault famously calls the 'repressive hypothesis,' a retrospective construction of a prudish Victorian regime as a foil for a putatively emancipated present. By associating sexual repression with the rise of bourgeois capitalism, the repudiation of this subjugation and concomitant embracing of sexual liberation take on a political significance. This apparently subversive gesture propagates a myth of sexual and political emancipation: sex is transformed into an 'opportunity to speak out against the powers that be, to utter truths and promise bliss, to link together enlightenment, liberation, and manifold pleasures,' even while allowing power to continue unchallenged because unrecognised.⁶

For Foucault, underlying this misperception of the past is a failure to recognise the ways in which power functions in modernity: exponents of the repressive hypothesis adhere to a concept of power based on an archaic model of sovereign might, one that exercises the 'power of life and death,' a hierarchical and uni-directional power founded on seizure and destruction, whether of goods, time, or ultimately, life.⁷ Since the Classical Age, however, there has been in operation a new form of power, a power that is 'not ensured by right but by technique, not by law but by normalization, not by punishment but by control, methods that are employed on all levels and in forms that go beyond the state and its apparatus.'⁸ Power no longer operates through the threat to take life, but through the administration of life, not through deprivation, but through preservation and multiplication. This 'bio-power' is organised around two poles: at one end, it concerns the disciplinary control of the human body, the aim of which is to create docile and efficient bodies ('an *anatomo-politics of the human body*') while at the other end, it involves the population species

⁶ Michel Foucault, *The History of Sexuality*, vol. 1, *The Will to Knowledge*, trans. Robert Hurley (1976; London: Penguin, 1981) 7.

⁷ Foucault, *History of Sexuality* 136.

⁸ Foucault, *History of Sexuality* 89.

as a whole ('*a bio-politics of the population*').⁹ The deployment of sex is located at the intersection of these two techniques of power: sex involves the individuating processes that heighten the awareness of the body on the one hand, and the means by which the concerns of the species—population control, fertility, health—might be monitored, on the other. Where sovereign power operates on the principle of consolidation and reinforcement and is thus a static force, bio-power, at once elusive and pervasive, inheres in relations and is manifest as a continual process of extension.¹⁰ Accordingly, power as a self-contained and finite entity, power 'in the substantive sense, "*le*" *pouvoir*, doesn't exist.'¹¹

More specifically, Foucault excludes censorship from the processes of bio-power, relegating it to the arsenal of sovereign rule: censorship is affiliated with other 'negative elements ... [as] one great central mechanism destined to say no.'¹² In this reading, censorship functions through prohibition and repression, denial and renunciation. Yet this is a one-sided definition of censorship, the narrowness of which belies the complexities of the origins of the terms. The term 'censorship' derives from the Roman official of the censor with the dual responsibilities of the regulation of morals and census-taking. The undertaking of moral guardianship is largely consonant with conventional understandings of the censor's role: according to Plutarch, it was the censor's duty to 'watch, regulate, and punish any tendency to indulge in licentious or voluptuous habits and to depart from the traditional and established way of living.'¹³ Superficially, this elaboration of duties is not unlike that of the repressive exercise of power dismissed by Foucault, yet the additional task of census-taking suggests a further dimension to the office. Foucault claims that power mechanisms in the modern age involve 'methods of observation, techniques of registration, procedures for investigation and research, apparatuses of control'; Plutarch writes of the compilation of 'a register of all the citizens according to their social and political classification.'¹⁴ The similarities are particularly striking given

⁹ Foucault, *History of Sexuality* 139.

¹⁰ As Felix Driver puts it, Foucault's is a 'colonizing form of power' ('Bodies in Space: Foucault's Account of Disciplinary Power,' *Reassessing Foucault: Power, Medicine and the Body*, ed. Colin Jones and Roy Porter (London: Routledge, 1994) 127.

¹¹ Michel Foucault, 'The Confession of the Flesh,' Foucault, *Power/Knowledge* 198.

¹² Foucault, *History of Sexuality* 12.

¹³ Plutarch, *Makers of Rome*, trans. Ian Scott-Kilvert (London: Penguin, 1965) 136.

¹⁴ Michel Foucault, 'Two Lectures,' Foucault, *Power/Knowledge* 102; Plutarch 136.

Foucault's cursory dismissal of censorship from the 'polymorphous techniques of power.'¹⁵ Foucault's 'devious and discreet' power seeks to penetrate into the core of the family unit just as the Roman censor looks to 'personal preferences and appetites, whether in marriage, the begetting of children, the regulation of his daily life, or the entertainment of his friends.'¹⁶ This second part of the censor's role surely gestures towards the panoptic nature of disciplinary power. The combination of punitive threats ('they had authority to degrade a Roman knight or to expel a senator,' writes Plutarch) and panoptic documentation would appear to exceed Foucault's designation of censorship as a purely repressive force.¹⁷

Despite his ahistorical and narrowly conceived understanding of censorship, Foucault has had a conspicuous influence on recent studies. Most notably, his concept of the productive nature of power has been adapted by scholars to move beyond a purely negative understanding of censorship.¹⁸ If power produces fields of knowledge, discursive categories, and modern subjects, so too, argue these scholars, does censorship produce creative measures to evade the censor's attention, categories of legitimate articulation, and at the most constitutive level, the conditions that make speech possible. These theoretical insights have informed my thesis, yet in a study rooted in the material practices of a specific period, it is necessary to negotiate between events in history, current scholarship on censorship, and nineteenth-century speculation on the topic.

Mill's pronouncement was made between two significant dates in the history of censorship: the 1857 passing of the Obscene Publications Act and the 1868 case of

¹⁵ Foucault, *History of Sexuality* 11.

¹⁶ Foucault, *History of Sexuality* 11, 42; Plutarch 136.

¹⁷ Plutarch 136.

¹⁸ Compare, for instance, Lord Radcliffe's claim in 1961 that '[h]istorically and by accepted convention, everyone in [Britain] is supposed to be against it,' or more recently, founding president of the Free Speech Committee of Australia, Robert Pullan's assertion that '[a]t some level we know instinctively that censorship is disreputable,' to Nigel Smith's observation that '[r]ather than censorship being a tyrannical evil, gradually erased in the histories of the most progressive societies, we are nowadays more likely to think of it as an important aspect of the power relations which permeate a society' (Lord Radcliffe, *Censors: The Rede Lecture 1961* (Cambridge: Cambridge UP, 1961) 1; Robert Pullan, *Guilty Secrets: Free Speech and Defamation in Australia* (Glebe: Pascal, 1994) x; Nigel Smith, Preface, *Literature and Censorship*, spec. issue of *Essays and Studies* 46 (1993): vi).

Regina v. Hicklin.¹⁹ While Lord Campbell's 1857 Act granted authorities greater powers of search and seizure in the fight against the traffic in obscene material, it was not until the 1868 prosecution of *Hicklin* that a definition of obscenity was articulated by Sir Alexander Cockburn:

The test of obscenity is whether the tendency of the matter charged as obscenity is to deprave and corrupt those whose minds are open to such immoral influences and into whose hands a publication of this sort might fall.²⁰

Even while censorial procedures were thus more formally consolidated in law, Mill and others pointed to the growing power of a less defined but no less effective public censure. Writing from his nineteenth-century vantage, Thomas Macaulay claimed a uniquely emancipated yet 'prudish' press for his nation:

From the day on which the emancipation of our literature was accomplished [the 1695 Licensing Act which abolished pre-publication censorship], the purification of our literature began. That purification was effected, not by the intervention of senates or magistrates, but by the opinion of the great body of educated Englishmen, before whom good and evil were set, and who were left free to make their choice ... the liberty of our press has been constantly becoming more and more entire ... [while] the restraint imposed on writers by the general feeling of readers has been constantly becoming more and more strict.²¹

Where Mill's public opinion was the onslaught of a collectively manipulated public, as will be discussed in Chapter One, Macaulay's was that of an educated elite for whom censure was an exercise of rational choice. Macaulay's insistence on the freedom of political critique may be indicative of Whiggish revisionism, given that political exigencies in the nineteenth century both international, as the Napoleonic Wars, and domestic, as Chartist agitation, for example, led to multiple prosecutions for blasphemous and seditious libel.²² Nonetheless, for the purposes of my thesis, what is most significant is that censorship, even in this brief account of its abolition, is fraught with contradictions. Macaulay locates the emergence of the strictest

¹⁹ For discussion of the 1857 Act and *Hicklin*, see M. D. J. Roberts, 'Morals, Art, and the Law: The Passing of the Obscene Publications Act, 1857,' *Victorian Studies* 28.4 (1985).

²⁰ *Law Reports*, 3 Q.B.D., 1867-8, 371.

²¹ Thomas Macaulay, *The History of England from the Ascension of James the Second*, vol. 4 (London: Longman, 1864) 109-10.

²² See Joss Marsh, *Word Crimes: Blasphemy, Culture, and Literature in Nineteenth-Century England* (Chicago: U of Chicago P, 1998).

restraint at the demise of the most explicit form of censorship: the abolition of pre-publication licensing emancipated the press and conferred freedom onto the citizen, the freedom to publish, but also the freedom to censure. The event that Macaulay insists ‘has done more for liberty and for civilisation than the Great Charter or the Bill of Rights’ thus also inaugurated an alternative mode of censorship, one in service to a purifying impulse, to render publications henceforth ‘more decorous than the sermons of the seventeenth century.’²³

These different manifestations of constraint suggest that censorship is an elusive term and practice, but its putative target, obscenity, is equally slippery. While the roots of the term are unclear, its etymology is suggestive. Peter Michelson uses the term in the ‘Greek sense of bringing onstage what is customarily kept offstage in western culture’: the obscene emerges in the making visible of what by consensus should be hidden.²⁴ Lynda Nead etymologically dismantles the term to suggest a meaning of ‘literally what is off, or to one side of the stage, beyond presentation’: art is that which can be represented while obscenity, or non-art, is that which is outside of representation.²⁵ The focus in these usages is on the Latin root, *scæna*, meaning stage or scene, with its resonances of the visual or the spectacular. This idea of staging, whether in Michelson’s concept of a transgressive presentation of what is conventionally proscribed or in Nead’s obverse reading of the spatially marginalised, suggests the theatre and the presence of an audience. This relationship between obscenity and audience underwrites one of the primary areas of investigation in this thesis: the relationship between censorship and the public.

The term ‘public’ encompasses both the sense of the visible, in terms of being open to view, and the aggregate of consumers affected by this visibility. This

²³ Macaulay 78, 110.

My thesis deals with this issue of the censorship of obscenity. Other studies of nineteenth-century censorship have a different focus. Iain McCalman’s study of ‘Grub Street radicals’ explores the overlap between professional pornographers and political radicals in the decades prior to the timeframe of my thesis. These radical pressmen set up the commercial infrastructure of the pornographic trade that was to trouble nineteenth-century reformers and legislators (*Radical Underworld: Prophets, Revolutionaries and Pornographers in London, 1795-1849* (Oxford: Clarendon, 1993)). Joss Marsh continues from McCalman, giving an account of blasphemy prosecutions through the Victorian years. Gowan Dawson looks at the censoring of Darwinian science and how allegations of obscenity were used to discredit evolutionary ideas (*Darwin, Literature and Victorian Respectability* (Cambridge: Cambridge UP, 2007)).

²⁴ Peter Michelson, *Speaking the Unspeakable: A Poetics of Obscenity* (Albany: State U of New York P, 1993) xi.

²⁵ Lynda Nead, *The Female Nude: Art, Obscenity and Sexuality* (London: Routledge, 1992) 25.

connection is most clearly demonstrated in the theatre, in which a kind of prior censorship in the form of pre-performance licensing determined what could literally be staged and brought to public view. Empirically, too, anxieties over the morality of cultural products and subsequent calls for censorship tend to intensify at the point when these products reach a greater audience. The outcry in England over Émile Zola's works, for instance, focused on Henry Vizetelly's translations, while objections to artistic nudes desecrated their accessibility in public galleries, as I will show in Chapters Three and Six respectively.

This thesis further argues that censorship is linked more constitutively to the idea of the public beyond the public as a corporate audience. Prior to the question of what books might suitably be availed to the public readership, or what plays or paintings to the public of viewers, is the question of what constitutes and who participates in this public. That this question of the public was a site of contestation will become clear in Chapter One, where I look at the changing concept of the public sphere within a Habermasian framework; in later chapters, I will show that anxieties about this public persisted in other areas of inquiry as well. Michelson's and Nead's readings both show an interest in the peripheral areas of the stage, in the liminal region between the visible and the invisible. In this sense, the metaphor of the stage, specifically, the margins of the stage, aptly describe the ambiguities attending the concept of the public and the problem of obscenity in this period. Censorship, as I will show, was concerned with the negotiation of limits, whether of legitimate interference or of the consensually representable or speakable.

This thesis is divided into three parts of two chapters each. Part One, 'Censorship and the Public Sphere,' sets up the context of nineteenth-century censorship, looking at censorship as a dialectic negotiation of the private and the public. In his *Structural Transformation of the Public Sphere*, Jürgen Habermas theorised the evolution and decline of a bourgeois public sphere from a rationally debating and critically informed public to a pseudo-rational mass of consumers. It is this debased public to which Mill refers in his contention that mid-century Britain is afflicted by a hegemonic, rather than a violent, censorship. Chapter One relates these general social and political anxieties to the more specific context of literary censorship. Writers in

the later decades of the century perceived the constraints of the literary marketplace as a form of censorship, subordinating the literary arts to the demands of a mass readership and the economic imperatives of a publishing industry. I then turn to Habermas's subsequent work on communicative action, arguing that this linguistic turn mirrors a similar shift in censorship scholarship from the chronicling of events to more theoretical speculations on speech and silencing, and discourse and control. I argue that these developments leave us at an impasse, vacillating between, on the one hand, concrete acts of regulation or suppression, and on the other, a theoretical trend that seeks to expand the category of censorship to embrace a multitude of power relations.

Chapter Two turns to Henry James as a way of exploring these problematic divergences. While James was not directly the target of prosecution, he was certainly aware of the constraints facing the late-century author. The first part of this chapter examines how the topics of literary freedom and authorial responsibility are explored in his early writing. The second part is a reading *The Turn of the Screw* and *The Awkward Age* as texts that deal with issues central to censorship in the nineteenth century: the young female reader; innocence and corruption; knowledge; communication and silence. As such, I use James's texts to comment on the problems of censorship, the assumptions made about and by censorship, and the relationship between the putative agents and victims of censorship.

Part Two, 'The Trials and Discourses of Censorship,' looks at obscenity trials, placing them in a greater cultural context. Chapter Three deals with Henry Vizetelly's prosecution for publishing translations of Zola. I argue that this is an incomplete narrative: Zola's works and Zola's person were subject to further attack by the discourse of degeneration, exemplified in the work of Max Nordau. Prosecution under obscenity law may be an explicit form of suppression, but the delegitimizing strategies by Nordau and others were equally censorious.

Where Chapter Three problematises simplistic binaries between law and literature, Chapter Four looks at the analogous narrative of censorship as a contest between law and science by examining the prosecution of George Bedborough for selling Havelock Ellis's *Sexual Inversion*. While the trial has traditionally been presented as an injudicious attack on science, I show that the case reveals complex

interactions between disciplinary fields of law, medical science, and the nascent science of sex. I examine these interdisciplinary struggles, looking at the implications of legitimization strategies for the concepts of obscenity, scientific knowledge, and their respective audiences.

Part Three, 'Censorship and the Visual Field,' looks at censorship in the visual arts. Following the format of the previous section, Chapter Five begins with the 1878 *Whistler v. Ruskin* libel trial and argues that what is at stake is the question of authority. Ruskin claimed that Whistler's suit was an attempt to censor the critic's expressive freedoms; Whistler counterclaimed that Ruskin's review impinged on the painter's artistic freedom by causing financial losses through the denigration of reputation. At issue were the category of art and the legitimacy of each party's claims and definitions. More specifically, the contest was also articulated in terms of legitimate ways of seeing, pitting Ruskin's moral criticism against Whistler's aestheticism.

The idea of competing ways of seeing leads into Chapter Six, which looks at the artistic nude. This chapter takes as a starting point the 1885 'British Matron' affair, in which a letter to *The Times* from the self-titled 'British Matron' deprecating the immorality of recent nude exhibitions led to a heated exchange with cultural resonances beyond the letter pages. Calls for the banning of such displays were countered by efforts to legitimate the genre. While looking at the controversy in the context of the moral panics of the 1880s, this chapter also places the debates in the greater context of the nineteenth-century concern over the public and the private: the problem of regulation emerged only with the advent of the public display of art while the nude became a problem only in public exhibition. The question of the morality of the nude was in fact an intervention in the greater debates over what constitutes a public. In this way, I return to the issues raised in Part One by commentators such as Mill about censorship and the public.

As is evident from the chapter summaries, this thesis covers much ground, from the literary to the visual arts, from Victorian polemics to recent theoretical debates. This thesis does not seek to provide an exhaustive account of instances of censorship. Instead, I start with key events in traditional histories of censorship, re-read them in

different contexts, then read back into the histories of censorship. Donald Thomas prefaces his account of censorship in England with the warning that the ‘main problem in writing a history of literary censorship is to avoid writing the history of too many other things at the same time—and, on the other hand, not to confine the account to a mere chronicle of cases and statutes.’²⁶ His judicious attempt to steer a middle course is admirable, but I would argue that writing about censorship unavoidably involves writing of other things: the issue is the extent to which these ‘many other things’ come under the rubric of censorship.

Limitations of space have meant that there are areas of investigation that I have been unable to pursue. There are two omissions in particular. The first is the kind of close reading that compares textual versions in order to examine alterations and gaps. Such readings would highlight the issue of the relationship between censorship, self-censorship, and editing, and questions of textual integrity, authorial intentions, and the process of writing itself. The various editions of Thomas Hardy’s works, for instance, would be a suitable subject. While I do not have the space to undertake such a reading, this thesis sets out the framework and the theoretic premises from which this kind of analysis can be carried out.

Second, I have not dealt with the issue of theatrical censorship. This form of censorship arguably has the longest official history, from the Master of the Revels’ duties in the early modern period to the pre-performance licences granted by the Lord Chamberlain’s Office in the nineteenth century. While there are studies of theatrical censorship that deal with both the operation of the Lord Chamber’s Office and specific instances of censorship, my thesis suggests an alternative perspective by looking at the play in performance as the intersection of the textual and the visual.²⁷ The process of licensing dealt with the play as text; the play in performance, however, becomes a cultural event that comprises both textual content as well as visual consumption, returning to the processes of looking that I explore in Part Three

²⁶ Thomas, *Long Time Burning* xi.

²⁷ John Russell Stephens provides a valuable if straightforward history of the activities of the Lord Chamberlain’s Office (*The Censorship of English Drama 1824-1901* (Cambridge: Cambridge UP, 1980)). Celia Marshik offers a specific study of the case of Bernard Shaw’s *Mrs Warren’s Profession*, placing the play and its performance and reception in the context of late-century purity agitations (*British Modernism and Censorship* (Cambridge: Cambridge UP, 2006)). Richard Foulkes looks at the relationship between the theatre and the church (*Church and Stage in Victorian England* (Cambridge: Cambridge UP, 1997)).

of this thesis. In this way, the theatre is aligned to other spectacular entertainments, such as variety shows, *tableaux vivants*, and earlier popular entertainments such as the diorama and the panorama.

These are possible areas of inquiry that have emerged from my research. What I hope to achieve is to provide an alternative way of conceptualising censorship that moves away from the rigid binaries informing older studies. Recent developments in theories of censorship are useful for investigating particular instances of regulation, but conversely, these instances, despite their specificity, can also provide insights into, and elucidation of, the theories themselves. By moving beyond a static understanding of censorship as silencing and repression, I hope to redress conventional assumptions about Victorian society and popular myths of a draconian regime, while also reassessing the concept of censorship itself.

Part I

Censorship and the Public Sphere

Chapter 1

‘A Hostile and Dreaded Censorship’

I begin Chapter One by returning to Mill’s controversial claim in *On Liberty*: ‘In our times, from the highest class of society down to the lowest, every one lives as under the eye of a hostile and dreaded censorship’ (*CW* 18: 264). For Mill, the most pernicious effect of this censorship is its infringement on the individual’s sovereign rights, on the ‘inward domain of consciousness’ which underwrites his understanding of liberty (*CW* 18: 225).¹ A similar concern, as I will explain further in the next section, is echoed in a more specific context by authors protesting the constraints of censor and marketplace on artistic expression. In both circumstances, the culprit is an indiscriminating public: for Mill, the ‘social tyranny’ of numbers, and for the beleaguered writer, the despotic philistinism of public tastes (*CW* 18: 220). Yet claims for the autonomy of art and the prerogative of the artist over the communal demands of public morality, however fervently espoused, do not in the end obscure the material conditions binding author to the reading public. Thus, Henry James might intone against a literary marketplace populated by ‘millions for whom taste is but an obscure, confused, immediate instinct,’ and George Moore bewail the ‘tyranny’ of ‘the tittle-tattle of the nursery or the lady’s drawing-room,’ but as participants in the literary field, they were of necessity part of this public domain.²

¹ This categorical distinction between private and public—censorship being the imposition of a public or external force on a private and sacrosanct self—runs through much nineteenth-century protest against censorship. Opposition to the Obscene Publications Act of 1857, for example, focused on the issue of privacy. Reservations were voiced in parliamentary debate over the ‘danger of making mischief by an undue interference with the affairs of private life, and by encouraging an abuse of power’ (*Hansard Parliamentary Debates*, 3rd series, vol. 147 (12 August 1857): col. 1475).

² Henry James, ‘The Future of the Novel,’ *The Future of the Novel: Essays on the Art of Fiction*, ed. Leon Edel (New York: Vintage, 1956) 32; George Moore, *Confessions of a Young Man* (London: Heinemann, 1933) 176.

Such writers designate the demands of their public as a debilitating censorship, yet the changing conceptions of 'the public' in the nineteenth century mean that this situation is less straightforward than suggested. In tracing these shifting configurations, it will become clear that the meaning of censorship is itself a function of context, and moreover, that the concept of censorship takes on a discursive utility beyond its explicit function as a suppressive mechanism.

I start by analysing Mill's 'hostile and dreaded censorship' in relation to his work on sovereign individuality and liberal democracy. In the next section, I suggest that Mill's anxieties about a censorship by mass opinion were shared by late-century writers. Just as Mill argued that popular opinion in its debased, uncritical form inaugurates a regime of conformity, writers claimed that popular tastes and social mores set artificial and stultifying parameters for their art. This ambivalence towards the public is synthesised in Habermas's account of the degeneration of the political public sphere into an administered pseudo-public in the nineteenth century, which I discuss in the third section. In the final section, I look at the shift in Habermas's work to communicative action, arguing that there is a similar 'linguistic shift' in work on censorship.

Mill and the Tyranny of the Majority

This chapter takes as a starting point a working definition of censorship as the controlling of what enters and circulates in the public domain, a broad understanding that encompasses both processes of prior restraint and post-articulation regulation. It includes explicit forms of censorship, such as bookburning, obscenity trials, and the imprisonment of writers, as well as partial banning and expurgations, such as Thomas Bowdler's 1826 edition of Gibbon's *History of the Decline and Fall of the Roman Empire*, subtitled 'For the use of families and young persons, reprinted from the original text, with the careful omission of all passages of an irreligious or immoral tendency.'³ Legal measures, such as libel law and intellectual property, also fall within this purview as mechanisms which demarcate and patrol the boundaries of

³ Bowdler also produced edited versions of Shakespeare's works (1807) and the Old Testament (1822).

the public domain. This definition also includes market or economic censorship, the forms of control that function by determining the financial viability of publication. Broadly speaking, the field of the literary marketplace consists of the following players: the author; those in direct control of market mechanisms, for example, editors, publishers, and publishers' readers; the critic and the reviewer; and the consumer or the general reading public. This chapter focuses on the interactions between these agents, on the permutations of power between them, and perhaps as significantly, the perception amongst these agents as to who holds the balance of power, for the nature and severity of censorship measures were themselves controversial topics of debate. While James Anson Farrer at the beginning of the twentieth century lauds his period as one 'of almost complete literary impunity' with its emergence from the 'age of barbarism' of centuries past, others treated such optimistic pronouncements with scepticism.⁴ Robert Buchanan, for example, protesting the suppression of his play, *The New Don Quixote*, by the Lord Chamberlain's Office in 1895, alleges such action as more 'suggestive of the Dark Ages or the Star Chamber than of the nineteenth century.'⁵ Uniting these assessments, however, is the belief that censorship in whatever form is an anomalous and anachronistic practice, incommensurate with Britain's reputation in the nineteenth century as the bastion of civil and political liberties.⁶

Farrer and Buchanan define censorship as an official response to literary production. By contrast, the censorship described by Mill in *On Liberty* is a censorship, not by authoritarian government, but by the 'majority,' not politico-judicial oppression, but 'social tyranny,' the 'moral coercion of public opinion' (*CW* 18: 219-20, 223). This latter form of control is more insidious than overt repression, more 'formidable' despite being dispersed, for although 'not usually upheld by such extreme penalties, it leaves fewer means of escape, penetrating much more deeply into the details of life, and enslaving the soul itself' (*CW* 18: 220). This is a censorship whose methods are self-effacing, for the despotism of opinion and custom

⁴ James Anson Farrer, *Books Condemned to be Burnt* (London: Elliot Stock, 1904) 188, x.

⁵ Cited in Stephens 149.

⁶ As Robert Justin Goldstein argues, 'Britain was viewed by European liberals and radicals not only as a model of political freedom but, more specifically, as a model of freedom for the press' ('A Land of Relative Freedom: Censorship of the Press and the Arts in the Nineteenth Century (1815-1914),' *Writing and Censorship in Britain*, ed. Paul Hyland and Neil Sammells (London: Routledge, 1992) 127).

appears, not as unjust incursions, but as ‘self-evident and self-justifying [rules]’ (*CW* 18: 220). Thus, a ‘social’ censorship functions beyond the physical containment of bodies, infiltrating into the fabric of life itself, and does so through a cunning naturalisation that invalidates any opposition. Under the ‘magical influence of custom,’ the tyranny of public opinion bypasses rational thought to make feeling the determinant of behaviour (*CW* 18: 220). This is a tyranny of the majority in numbers, but at heart, it exemplifies a collective solipsism, as the impulse arises from each individual’s belief that ‘everybody should be required to act as he, and those with whom he sympathizes, would like them to act’ (*CW* 18: 221).⁷ The mark of rational man—for Mill, as will be discussed below, the rights to liberty apply *only* to the rationally thinking individual—is his corrigibility, and Mill is forthright in stating that this capacity for self-rectification necessitates both discussion and experience: ‘Not by experience alone. There must be discussion, to show how experience is to be interpreted’ (*CW* 18: 231). The censoring of opinion and the silencing of discussion therefore assail the defining principle of the rational being, offering instead, pseudo-rational justifications and uncontested opinion as irrefutable truths. Mill’s primary interest here is in determining the limits of legitimate interference, and the literary enters into this task insofar as the writer’s freedom of expression is a subset of the inalienable freedom of thought, feeling, and opinion, while the rights of the reader are protected by what Mill calls ‘liberty of tastes and pursuits’ (*CW* 18: 220, 226).

This concern for the autonomy of the individual is coupled with equal attention to social cohesion. Mill’s argument for the unfettered circulation of opinion lies in part in his belief that truth ‘is so much a question of the reconciling and combining of opposites,’ and this process requires the defence, not just of compatible opinion, but more significantly, of antagonistic expressions (*CW* 18: 254). That is, we must uphold the right of expression of opinions ‘favourable to democracy and to aristocracy, to property and to equality, ... and all the other standing antagonisms of practical life’ (*CW* 18: 254). This dual focus becomes clear in a passage on the inimical effects of silencing:

⁷ Bruce Baum notes that while the primary focus in *On Liberty* is the tyranny of the majority, Mill is also concerned with ‘*minority tyranny* by the capitalist class,’ that is, by those whose social power exceeds that of say, the proletariat’s power of numbers (‘Freedom, Power and Public Opinion: J. S. Mill on the Public Sphere,’ *History of Political Thought* 22.3 (2001): 523).

But the peculiar evil of silencing the expression of an opinion is, that it is robbing the human race; posterity as well as the existing generation; those who dissent from the opinion, still more than those who hold it. If the opinion is right, they are deprived of the opportunity of exchanging error for truth: if wrong, they lose, what is almost as great a benefit, the clearer perception and livelier impression of truth, produced by its collision with error. (CW 18: 229)

The harms of suppressing true opinion need hardly be justified; more significantly, the silencing of false opinion is equally pernicious, for the harms of silencing extend beyond that of its effect on the censored speaker to consequences for the race. While upholding the pursuit of individuality, which, for Mill, is synonymous with development, he is also insistent that the dividends of rational individuality cohere in a richer, more diverse humanity, ‘furnishing more abundant aliment to high thoughts and elevating feelings, and strengthening the tie which binds every individual to the race, by making the race infinitely better worth belonging to’ (CW 18: 266). Where conformity through adherence to custom is merely a tyranny of numbers, consensus arrived at through rational-critical debate serves a greater good. Underpinning his position is a particular notion of truth as a process of contestation. Truth must be subject to constant and rigorous testing to militate against a blind conformity which can override reason and in turn transform ‘living truth’ to ‘dead dogma’ or mere ‘superstition’ (CW 18: 243, 244). Given that there is no ‘absolute certainty,’ merely ‘assurance sufficient for the purposes of human life,’ and given that such approximation can be attained only through a dynamic ‘process of a struggle between combatants fighting under hostile banners,’ the a priori suppression of contradictory statements is not only an assumption of infallibility, but also the eroding of a rational basis for ethical action (CW 18: 231, 254). Censorship of opinion, regardless of the content of this opinion, renders one party of the ‘violent conflict’ *hors de combat*, thereby derailing from the start the process necessary for the constant renewal of truth and is therefore a ‘formidable evil’ (CW 18: 257).

Leslie Stephen, in his 1883 essay, ‘The Suppression of Poisonous Opinions,’ argues that Mill’s idea that truth is compromised by the suppression of contrary opinion gives false credence to the efficacy of persecution. Stephen does not depart substantially from Mill’s reasoning that the ‘collateral evils’ of persecution far outweigh its benefits, but claims that Mill both overstates its potency and understates

its harms.⁸ Persecution, if it is to fulfill its extirpative function, needs ‘not only [to] suppress the individual but [to] eradicate the opinion from society’ and it is the magnitude, and indeed, the impossibility, of this latter stipulation that calls into question its effectiveness.⁹ While violence or the threat of violence might stifle an isolated statement, it leaves untouched the network of ideas from which this articulation springs. Where Mill, according to Stephen, assumes an opinion to be ‘a sort of definite object, a tangible thing ... and therefore capable of being laid hold of and suppressed,’ Stephen offers instead an organicist view of knowledge that resists easy containment.¹⁰ Knowledge, being ‘a system of interdependent truths,’ is a ‘unity’ with each opinion being ‘part of a single growth’ such that the formation itself survives separate assaults on individual elements.¹¹ Stephen thus concludes that an ‘effectual censorship’ insists upon the ‘necessity of arresting a mental phase as well as a particular error, and of altering the whole political and social organisation.’¹² That is, for censorship to work effectually, not only must the transgressive articulation be dealt with, whether a book, a play, or an isolated expression of heterodoxy, the social, political, and economic conditions as well as the intellectual currents cultivating this ‘particular error’ must also be eliminated.

The elusive nature of language itself, the ‘possible divergence of meaning under unity of phrase’ which allows ‘infidel opinions [to be voiced] in the language of perfect orthodoxy,’ further complicates the task of the persecutor, opening up an ever expanding discursive space of potential transgression.¹³ Unless all thought and all knowledge are suppressed in their entirety—and here is where Stephen claims that Mill underestimates potential harm, if, that is, ‘so wild an hypothesis [as this complete destruction] can be entertained’—one is left with ‘partial persecution’ which is itself detrimental to persecution’s original purpose.¹⁴ Enforcing a superficial deference, partial persecution fosters a hypocrisy that is a ‘dry-rot of the system defended’ while generating ill-will through its oppressive actions.¹⁵ To continue

⁸ Leslie Stephen, ‘The Suppression of Poisonous Opinions,’ *Nineteenth Century* 13 (1883): 493.

⁹ Stephen, ‘Suppression’ 496.

¹⁰ Stephen, ‘Suppression’ 497.

¹¹ Stephen, ‘Suppression’ 498, 500, 498.

¹² Stephen, ‘Suppression’ 653.

¹³ Stephen, ‘Suppression’ 506, 505.

¹⁴ Stephen, ‘Suppression’ 499, 653.

¹⁵ Stephen, ‘Suppression’ 504.

Stephen's linguistic focus, censorship, to be wholly successful, must eradicate not just the *parole* of each offensive utterance, but the entire *langue* as well. Moreover, as a purely repressive force, it fails to promote orthodox belief since people, Stephen argues, 'do not believe more vigorously because believers in a different creed are burnt. They only become more cowardly in all their opinions.'¹⁶ What Stephen does, in effect, is subject persecution to an interrogation on pragmatic grounds in order to eliminate it as a viable option for dealing with heterodox opinion. This strategy, he claims, offers a more persuasive argument against persecution than a mere consideration of its evils.¹⁷

By contrast, the principle of tolerance, according to Stephen, is underwritten by the conviction that 'truth is attainable, and only attainable, by the free play of intelligence.'¹⁸ Toleration provides the optimal conditions for such healthy discussion by setting out procedural guidelines which 'ensure ... fair play' with the goal of 'securing a possibility of ultimate agreement.'¹⁹ Yet this endorsement of the 'freest possible discussion from every possible point of view' seems disingenuous given Stephen's writing elsewhere concerning the legitimate limits of fiction.²⁰ In 'Art and Morality' (1875), Stephen ostensibly promotes an expansive mode of (literary) discussion—'[w]e should know what all men think and have thought about themselves and the world'—yet qualifies this freedom by delimiting a category of 'passions' to be proscribed, if not by 'sterner measures' then by 'public opinion.'²¹ In this essay, Stephen defines morality as the 'system of rules for regulating our passions' which stipulates that 'brutalising and anti-social instincts' must be 'stamped out.'²² Ostensibly, Stephen contradicts his thesis of the immorality of persecution in 'The Suppression of Poisonous Opinions,' the assertion there that '[r]estraint of opinion, or of its free utterance, by terror is the essence of persecution, and [that] all conduct intended to achieve that purpose is immoral.'²³ Yet this apparent incompatibility is reconciled by the distinction he makes between the

¹⁶ Stephen, 'Suppression' 505.

¹⁷ In questioning a form of control that represses without generating consent, Stephen in some ways gestures towards a Foucauldian analysis of the productive nature of power.

¹⁸ Stephen, 'Suppression' 664.

¹⁹ Stephen, 'Suppression' 659.

²⁰ Stephen, 'Suppression' 665.

²¹ Leslie Stephen, 'Art and Morality,' *Cornhill Magazine* 32 (1875): 94.

²² Stephen, 'Art and Morality' 92, 94.

²³ Stephen, 'Suppression' 658.

‘terror’ of persecution, on the one hand, and the legitimate interference of public opinion, on the other, between actionable offences that incite violence, and offensive, though permissible, utterances. This distinction allows Stephen to maintain that every opinion is given voice even while ‘outrages upon good taste’ might be unofficially chastised.²⁴ In this sense, Stephen has a much narrower definition of persecution and censorship than Mill. Stephen focuses his discussion on the official institutions of governance and sees public opinion as an alternative to these measures. Thus, he concludes that ‘offensiveness of manner belongs to that kind of immorality which can best be suppressed by public opinion’: suppression does not in itself denote persecutory intent, but rather must be judged by the means by which it is implemented.²⁵ This is a distinction that Mill does not notionally make. On the contrary, he argues that the weight of public opinion is as much a persecuting force as that of explicit and formal censorships, and indeed, it is the public and its ‘hostile and dreaded censorship’ that pose the greatest threat to liberty (*CW* 18: 264).

I qualify my assertion by suggesting that Mill only notionally condemns a wider range of activity than Stephen as illegitimate exercises of force. Mill’s specification of the inner domain of freedom might on first perusal seem an uncompromising defence of individual liberty, one that provides the principles on which much argument for free speech has subsequently been based:

If all mankind minus one, were of one opinion, and only one person were of the contrary opinion, mankind would be no more justified in silencing that one person, than he, if he had the power, would be justified in silencing mankind. (*CW* 18: 229)

While it would appear that the individual must be protected against the collective, it is also clear that such statements are qualified from the start. Early on, Mill reminds

²⁴ Stephen, ‘Suppression’ 666. Stephen’s censorious activities in his capacity as editor of *The Cornhill Magazine*—Stephen famously rejected Thomas Hardy’s *The Return of the Native* and demanded multiple expurgations when publishing *Far from the Madding Crowd*—might thus be placed in the category of legitimate interference. As Stephen wrote, he was himself constrained by the editorial policies instituted by the magazine’s founder, William Thackeray, who stipulated that the *Cornhill* be ‘strictly limited to the inoffensive—it was to contain nothing which could be unsuitable reading for the daughters of country parsons whom Trollope was describing in its pages’ (*Some Early Impressions* (London: Hogarth, 1924) 136).

For an analysis of the revisions and omissions in the various editions of *Far from the Madding Crowd*, see Rosemarie Morgan, *Cancelled Words: Rediscovering Thomas Hardy* (London: Routledge, 1992).

²⁵ Stephen, ‘Suppression’ 666.

his readers that these principles of freedom ‘apply only to human beings in the maturity of their faculties,’ that is, those capable of ‘free and equal discussion,’ thus debarring from these rights those who have not attained adulthood and ‘those backward states of society in which the race itself may be considered as in its nonage’ (*CW* 18: 224). These stipulations are attributable to mid-Victorian race theory, yet these qualifications are not merely a clarification of the domain to be protected but rather, in themselves, inaugurate a regime of censorship equally stringent to that condemned by Mill. Mill’s harm principle ostensibly sets out the domain of legitimate external interference and concomitantly, the ‘appropriate region of human liberty’ that is, in theory, sacrosanct from such incursions (*CW* 18: 225):

The only part of the conduct of any one, for which he is amenable to society, is that which concerns others. In the part which merely concerns himself, his independence is, of right, absolute. Over himself, over his own body and mind, the individual is sovereign. (*CW* 18: 224)

The distinction between self-regarding conduct which is immune from regulation and harm-causing conduct which is subject to control and punishment, whether juridical or social, is underwritten by the distinction between private and public that underlies liberal ideology. Yet a closer examination of Mill’s writing reveals that this distinction is less clear-cut than is suggested, for Mill advocates repercussions for both kinds of conduct. Joseph Hamburger argues that *On Liberty* is less a defence of liberty than a justification of certain forms of intervention and control. Questioning the accuracy of positioning Mill as a forerunner of twentieth-century liberalism, Hamburger argues that ‘Mill’s regime was so censorious, and the range of conduct that was discouraged and forbidden was so great, it must be considered whether Mill was as great an enthusiast for liberty and toleration as generally believed.’²⁶ David Dyzenhaus likewise sees *On Liberty* not so much as an absolute defence of free speech as the formulation of ‘a liberal censorship policy.’²⁷ K. C. O’Rourke claims that Mill leaves intact the ‘most powerful form of censorship available to individuals’: the right of avoidance.²⁸ That is, whilst Mill contends that the silencing of opinion is an assault on liberty, the individual is still free to exercise his right to

²⁶ Joseph Hamburger, *John Stuart Mill on Liberty and Control* (Princeton: Princeton UP, 1999) xiv.

²⁷ David Dyzenhaus, ‘John Stuart Mill and the Harm of Pornography,’ *Ethics* 102.3 (1992): 547.

²⁸ K. C. O’Rourke, *John Stuart Mill and Freedom of Expression: The Genesis of a Theory* (London: Routledge, 2001) 141.

refuse to listen, an act O'Rourke suggests is itself a form of effective, if not the most effective, censorship.

For example, Mill delineates a category of '[a]cts injurious to others' requiring particular treatment, yet simultaneously undermines this distinction by claiming that 'not only these acts, but the dispositions which lead to them, are properly immoral, and fit subjects of disapprobation which may rise to abhorrence' (*CW* 18: 279). A person may therefore 'suffer very severe penalties at the hands of others, for faults which *directly concern only himself*,' for faults such as 'lowness or depravation of taste, which, though it cannot justify doing harm to the person who manifests it, renders him necessarily and properly a subject of distaste, or, in extreme cases, even of contempt' (*CW* 18: 278, my emphasis). This censorious regime is governed, not by 'whips and scourges,' but by social opprobrium, though arguably is as censorious nonetheless (*CW* 18: 277). The public opinion previously excoriated as a dreaded censorship is here harnessed as a socially beneficial and necessary force, which, though 'severe,' is yet exempt from the allegation of harm-inducing effect. For Mill as for Stephen then, despite his condemnation of public opinion as a severe censorship, the sovereignty of the individual, even in matters directly concerning himself, is not absolute, but can be legitimately curtailed. Hamburger attributes these authoritarian elements to Mill's greater agenda of cultural reform, a project of moral regeneration that sought to alter not just harmful action but moral character as well. R. J. Halliday argues that apparent inconsistencies in Mill's conception of liberty can be explained by a useful distinction between self- and other-regarding behaviour, the curtailing of the former to be obtained only by non-coercive means, the latter by law and sanction. Halliday's reading places Mill closer to Stephen's position, but explains away the contradictions too smoothly, underplaying some essential tensions in Mill's writing, as I will discuss below.²⁹ Shannon C. Stimson and Murray Milgate argue that what may seem to be inconsistencies in Mill's liberalism might be explained by differentiating between individual liberty and economic liberty, the former to which Mill applied utilitarian principles, the latter merely abstract economic theory.³⁰ Thus, they claim, interventions in the economic arena justified by

²⁹ R. J. Halliday, *John Stuart Mill* (1976; London: Routledge, 2004).

³⁰ Shannon C. Stimson and Murray Milgate, 'Mill, Liberty and the Facts of Life,' *Political Studies* 49.2 (2001).

arguments from political economy do not in any way infringe on individual liberty. Stimson and Milgate might thus account for discrepancies in theory, but the delineation of liberties is more equivocal in practice. As I will show in the next section, this distinction collapses in the case of the literary marketplace and the critique of literature as a capitalist venture.³¹

A further way of conceptualising these apparent contradictions is to chart the changing role of the public and its relationship with the press in Mill's work. In his earlier writings, Mill had championed the cause of press freedom, calling for the abolition of the 'taxes on knowledge'—stamp duty, paper excise duty, and taxes on advertising—which collectively shackled the educative potential of the press.³² 'A tax on newspapers,' he writes in *Principles of Political Economy* (1848), 'is objectionable, not so much where it does fall as where it does not, that is, where it prevents newspapers from being used' (*CW* 3: 861). The value of the press rests, not in the 'origination of useful ideas,' but in its capacity to transmit information to 'that large part of the community who have been taught to read, but have received little other intellectual education.' As the mode of instruction of potentially greatest reach in terms of circulation and accessibility—Mill compares newspapers favourably with 'other more recondite sources of instruction'—newspapers foster intellectual activity, 'correct many prejudices and superstitions, and keep up a habit of discussion, and interest in public concerns.' Its efficacy as a bulwark against 'stagnation of mind' can be felt 'in the lower and middle, if not in all, ranks [of society].'³³ In these readings, the press, in cultivating an informed public and facilitating debate, has an infrastructural centrality for the conditions of individual and democratic liberty, and Mill explicitly denounces any limits to its functioning.

Yet by 1859, there had been a significant shift in Mill's attitude towards both the press and the public at large. Under earlier economic sanctions that were tantamount to a censorship of the press, the public was figured as the victim of

³¹ This conflation of personal and economic liberty is also evident in Whistler's allegations of censorious interference by Ruskin, as I will discuss in Chapter Five.

³² The campaign was at its most heated during the 1830-36 'war of the unstamped,' which resulted in a reduction from fourpence per newspaper to one penny. It was not until 1855 that stamp duty was abolished, while advertisement duty and paper excise duty were removed in 1853 and 1861 respectively.

³³ In *Considerations on Representative Government* (1861), Mill claims that the press is a modern day approximation of the Athenian agora (*CW* 19: 378).

tyranny, deprived of the means to rational selfhood. In *On Liberty*, however, the public itself has become the agent of tyranny. Newspapers, once the ideal public forum for the dissemination of ideas and an arena for debate, are now complicit with the mental stultification of its mass readership. Mill writes of the masses—here, he indicates that he means ‘chiefly the middle class’—that ‘[t]heir thinking is done for them by men much like themselves, addressing them or speaking in their name, on the spur of the moment, *through the newspapers*’ (*CW* 18: 269, my emphasis). The reach and power of the press have not diminished, but where once it was crucial to the processes of political will formation, now it merely fosters intellectual torpidity. That Mill was aware of the tenuous instrumentality of the press was already evident in his earlier commentary. Mill observed in 1834 that with the shift in the balance of social power from the clergy to the press, newspapers were now ‘the sole priesthood of our time.’³⁴ Yet while the press may ‘govern the country ... govern the mind and conduct of the people,’ there was a conspicuous absence of any systematic training and cultivation of its secular priests, and the execution of the highest office was thus ‘abandoned to chance’ (*CW* 6: 163, 164). The absolute freedom of the press stipulated by Mill above is here qualified by an implicit call for some sort of regulation to safeguard against the abuse of so powerful an instrument.

There is a similar ambivalence in Mill’s attitude towards the public, one that underlies his discussions of liberty, suffrage, and participatory politics. While for Mill, liberal democracy is the ideal form of government, he is nonetheless alert to the fragility of this institution.³⁵ He writes, ‘[t]he natural tendency of representative government, as of modern civilization, is towards collective mediocrity,’ and there is the ever-present potential, as forewarned in *On Liberty*, for a rational public—‘a virtuous and enlightened public opinion,’ as Mill calls it in *Representative Government*—to degenerate into a numbing conformity, and democracy into tyranny (*CW* 19: 457, 390). On the one hand, Mill imputes great benefits to public participation in political affairs. Mill argues that the individual is himself best

³⁴ Mill, ‘Notes on the Newspapers,’ *CW* 6: 164.

³⁵ In *Representative Government*, Mill asserts that the ‘ideally best form of government is that in which the sovereignty ... is vested in the entire aggregate of the community; every citizen not only having a voice in the exercise of that ultimate sovereignty, but being, at least occasionally, called on to take an actual part in the government, by the personal discharge of some public function, local or general’ (*CW* 19: 403-4).

situated to protect his own rights and interests.³⁶ Moreover, public participation is the most efficacious means of public education, and education the means to an ideal of a 'virtuous' and 'enlightened' public; the government is 'an agency of national education' and franchise 'a potent instrument of mental improvement' (*CW* 19: 393, 468). Inclusion in public functions not only accrues in intellectual but also in moral benefits, for not only does it create a critically informed public, it fosters an awareness of the common good to extend the individual's sphere of apprehension beyond myopic self-interests.

On the other hand, Mill is also concerned with the composition and nature of this public.³⁷ His is thus a 'universal, but graduated suffrage,' with three a priori exclusions: those not meeting basic standards of literacy; those who pay no taxes; and those receiving parish relief (*CW* 19: 479, 470-2).³⁸ Additionally, Mill promotes a system of plural voting, in which 'superior' members of the electorate are given greater electoral weighting, superiority understood as 'mental' superiority, to be gauged in practice by occupation (*CW* 19: 473, 475).³⁹ These stipulations, based on

³⁶ Mill writes, 'the rights and interests of every or any person are only secure from being disregarded, when the person interested is himself able, and habitually disposed, to stand up for them' (*CW* 19: 404).

³⁷ After the 1832 Reform Act, the electorate increased to 931 735; after the Second Reform Act of 1867, to almost two million (John Hostettler and Brian P. Block, *Voting in Britain: A History of the Parliamentary Franchise* (Chichester: Barry Rose, 2001) 210, 282).

³⁸ Mill's concern with competence—intellectual, moral, and practical—obtains not only to the individual voter but to the polity itself. Thus, the fitness of any political system must be measured in relation to its subjects. From this perspective, despotism and slavery are justified when dealing with the most primitive of societies, as long as such rule is directed towards progress to an eventual ideal of self-government.

³⁹ Richard Arneson argues that these limitations reveal a fundamental incompatibility between Mill's paternalistic conception of good government in *Representative Government*—paternalistic in its insistence on educative criteria for government—and the principles of individual liberty as elucidated in *On Liberty*, but as I have suggested above, even the private realm of self-regarding actions may be subject to censorious opinion, calling into question what Arneson calls the 'libertarianism' of *On Liberty* ('Democracy and Liberty in Mill's Theory of Government,' *Journal of the History of Philosophy* 20.1 (1982): 62). I would argue that there is less an incompatibility between the two texts as an anxiety about the public and public opinion that spans the two.

At the same time, Arneson overlooks the extent to which Mill's exclusions are not permanent and that franchise, in theory, is potentially universal. It is in Mill's commitment to an egalitarian future and his belief in the universal potential for self-governance that Bruce Baum finds him most radically democratic ('Millian Radical Democracy: Education for Freedom and Dilemmas of Liberal Equality,' *Political Studies* 51 (2003)).

Contrary to Arneson, Alex Zakaras argues that *On Liberty* informs *Representative Government*, insofar as the virtues of Mill's sovereign individual form the bulwark against conformity and the buttress of democratic participation: individuality not only justifies liberal democracy, but 'functions as a conception of citizenship and a part of Mill's democratic theory' ('John Stuart Mill, Individuality, and Participatory Democracy,' *J. S. Mill's Political Thought: A Bicentennial Reassessment*, ed. Nadia Urbinati and Zakaras (Cambridge: Cambridge UP, 2007) 220).

the assumption that 'superior' voters are best able to determine, and will act according to, the common good, are precautionary measures against the 'danger of a low grade of intelligence in the representative body, and in the popular opinion which controls it' (*CW* 19: 448).⁴⁰ Mill also recommends a form of proportional voting based on a quota system both to ensure that minority groups are represented and to obviate against class legislation based on 'sinister' or sectional interests (*CW* 19: 446). Mill's support for an extension of franchise which posits a qualified universality thus also attests to reservations about the public.

These caveats and exceptions are a recognition of the fragility of liberty and rational public opinion, and the disconcerting ease with which democratic processes can degenerate into a censorship effected by sheer numbers. At issue was 'that miscellaneous collection of a few wise and many foolish individuals, called the public' and how best to avert the dangers of numerical dominance without violating the principles of liberty (*CW* 18: 232). In the next section, I consider this 'miscellaneous collection,' not in the context of the political public sphere but in that of the literary sphere. Mill's anxieties arose from the tension between his optimism about participatory politics and the consequences of radically altering the size and composition of the political public sphere. For the writer, as I will show below, the questions of censorship and freedom emerged from the tension between the writer's reservations about public tastes and his dependence on the public's patronage.

Publishing and the Public: Censorship in the Literary Marketplace

Echoing with striking similarity Mill's statement with which I started this chapter, George Moore asserts in 1885 that 'it is certain that never in any age or country have writers been asked to write under such restricted conditions.'⁴¹ Where Macaulay merely identified the peculiar conjunction of 'the freest press' with the 'most prudish,' Moore here controversially inflates the pernicious effects of the latter to

⁴⁰ As C. L. Ten points out, Mill's confidence in intellectual superiority in consolidating democratic processes draws a simplistic equivalence between education and moral rectitude ('Democracy, socialism, and the working classes,' *The Cambridge Companion to Mill*, ed. John Skorupski (Cambridge: Cambridge UP, 1998) 384).

⁴¹ George Moore, 'Literature at Nurse, or Circulating Morals,' Moore, *Literature* 19.

exceed even the most Draconian of pre-publication censorships.⁴² Of equal interest are both the substance of Moore's claim and the hyperbolic fervour with which it is made, for as I will show below, accusations of censorship become themselves strategic moves in the negotiation between author and public.

Moore's tirade is against the censorious acquisition policies of circulating libraries, a system of 'illiterate censorship' capitulating to the sensibility of 'young girls and widows of sedentary habits,' rendering literature a 'pulseless, non-vertebrate, jelly-fish sort of thing.'⁴³ According to Moore, although the (English) 'public prosecutor does not seek to over-ride literature the means of tyranny are not wanting,' and it is the tyranny of plebeian tastes and petty convention that has inaugurated the severest of censorship regimes.⁴⁴ For the librarian 'cater[s] for the masses, and the masses are young unmarried women who are supposed to know but one side of life,' and this infantilisation of literature, this need to confine literary portrayals to the 'one side of life,' perpetuates 'characterless trash' at the expense of the 'novel of observation, of analysis.'⁴⁵ The 'librarian' referred to was Charles Edward Mudie, proprietor of Mudie's Select Library, a dominant figure in the publishing milieu whose power was inseparable from the predominance of the three volume novel for the greater part of the century. From the time of Walter Scott's successful novels in this format, the 'three-decker' was perceived as the primary form of 'quality' fiction. At thirty-one shillings and sixpence for the three volumes, the purchase of new fiction was beyond the means of most readers and access to these works was through Mudie's circulating library and to a lesser extent, W. H. Smith's rival institutions. As almost the exclusive buyer of three-deckers, Mudie's reign was virtually supreme, and the epithet of 'Victorian Leviathan' conferred by Guinevere Griest is a well-deserved one.⁴⁶ Mudie demanded and received substantial discounts, and three volumes in effect meant three transactions from the patron; it

⁴² Macaulay 110.

⁴³ George Moore, 'A New Censorship of Literature,' Moore, *Literature* 32, 28.

⁴⁴ Moore, *Confessions* 176.

⁴⁵ Moore, 'Literature at Nurse' 21, 20.

⁴⁶ Guinevere Griest, 'A Victorian Leviathan: Mudie's Select Library,' *Nineteenth-Century Fiction* 20.2 (1965).

was thus in his interest to uphold what some, including Moore, believed to be an artificial format.⁴⁷

George Gissing likewise attributes an attenuated literary culture to an impoverished public palette, to the economic clout of the 'quarter-educated; ... the great new generation that is being turned out by the Board schools.'⁴⁸ These are those 'who can just read, but are incapable of sustained attention,' whose ascendancy in an increasingly consumerist literary field trivialises reading itself, turning it from a morally profitable intensive study to an extensive, diffused perusal.⁴⁹ Moore is explicit in his allegations of censorship, castigating equally the 'odious tyranny' of Mudie's regime and the facile tastes of the reading public, while Gissing is more hesitant of apportioning sole blame to Mudie.⁵⁰ While it is 'prevailing taste' which debilitates literary production, for Gissing, culpability rests also on the community of writers.⁵¹ In response to Moore, he argues that the 'course of literature is really directed by the men who make literature,' rather than the machinations of any library system, and in so stating, wrests authority away from Mudie back to the writer. But cultural hegemony entails in turn cultural liability: such men must take responsibility for the 'art decay' endemic to the age. According to Gissing, 'English novels are miserable stuff for a very miserable reason, simply because English novelists fear to do their best lest they should damage their popularity, and consequently their income.'⁵² It is therefore not Mudie alone who is motivated by the exigencies of 'profit and loss,' but the English author also, and if that makes of Mudie a tradesman,

⁴⁷ Rudyard Kipling's poem celebrating the demise of the three-volume novel, 'The Three-Decker' (1894), for instance, uses the metaphor of an unwieldy naval behemoth to satirise the literary one.

⁴⁸ George Gissing, *New Grub Street* (1891; Harmondsworth: Penguin, 1980) 496.

⁴⁹ Concerns over the effects of publishing practice on modes of reading were not new. Matthew Arnold in 1878 had already targeted the library system as 'a machinery for the multiplication and protection of bad literature, and for keeping good books dear.' This system encourages an extensive mode of reading, a propensity 'to reading imperfectly without discrimination, going through, for the most part, a quantity of the least profitable sort of books only,—novels,—and of but glancing at whatever is more serious' ('Copyright,' *The Complete Prose Works of Matthew Arnold*, vol. 9 (Ann Arbor: U of Michigan P, 1973) 125).

More generally, the problem of attention had become a pressing issue by the latter half of the century. In an increasingly mechanised and fast-paced society, the escalating and unavoidable sensory demands of the urban environment were thought to overtax the individual's cognitive and psychological faculties. See, for instance, Stephen Arata, 'On Not Paying Attention,' *Victorian Studies* 46.2 (2004); Jonathan Crary, *Suspensions of Perception: Attention, Spectacle, and Modern Culture* (Cambridge, Massachusetts: MIT Press, 2001).

⁵⁰ Moore, 'Literature at Nurse' 17.

⁵¹ Letter, *Pall Mall Gazette* (15 December, 1884) repr. in *Literature at Nurse* 45.

⁵² Letter, *Pall Mall Gazette* (15 December, 1884) 45.

which is the gist of Moore's polemic, the same is true of the hapless novelist.⁵³ Nevertheless, their differing views on culpability notwithstanding, common to both Gissing and Moore is a deep resentment of an industry that deprives the author of creative and economic autonomy, subjecting him to the vagaries of a partially educated public, leading to a form of censorship that silences all but the most intellectually, morally, and artistically innocuous.⁵⁴

In the end, the tyranny of the circulating library and the triple-decker was revoked, not by Moore's belligerent agitation, nor by Gissing's asseverations of artistic integrity, but by the capitalist logic which instituted the system in the first place. By the 1880s and the 1890s, the first beneficiaries of Forster's Education Act of 1870—Gissing's 'great new generation' of the 'quarter-educated'—had become a newly-constituted readership whose demands the essentially middle-class institution of Mudie's could not meet, yet whose custom the publishing industry was eager to exploit. The three-decker's dominance was increasingly challenged by the production of cheap single volumes, both as first editions, as for example, Moore's *Mummer's Wife*, and as reprints swiftly following the publication of the three-volume first editions. It was no longer economically expedient for Mudie to insist on maintaining the expensive and antiquated format and it was in fact Mudie who instigated its downfall.⁵⁵

The release from a tyranny of form and what Nigel Cross identifies as a 'relaxing of mid-Victorian pruderies' in the period roughly from 1880 onwards did

⁵³ Moore repeatedly refers to Mudie as a 'tradesman,' calling into question Mudie's credentials for the judging of literary matters. Mudie had refused to circulate Moore's first novel, *A Modern Lover*, at the instigation of '[t]wo ladies from the country' on account of its 'immorality' ('New Censorship' 30). Mudie, Moore states, is 'scarcely competent to decide the delicate and difficult artistic questions that authors in their struggles for new ideals might raise,' and against this incompetence, proffers favourable reviews of his novel by noted literary publications, amongst them, the *Athenaeum* and the *Spectator* ('Literature at Nurse' 3). At issue is the question of literary authority, and Mudie's sovereignty in the economic arena is pitted against the cultural legitimacy of these august institutions. Indeed, the reader, too, is called upon in judgement, challenged to differentiate between the offending passage which is cited at length, and comparable extracts from novels granted Mudie's approbation, including offerings from W. H. Mallock and Robert Buchanan.

⁵⁴ John Sutherland argues that such fictional denunciations of the literary trade as Gissing's *New Grub Street* are somewhat 'untrustworthy witness[es]' to the real relations between publishers and authors, but I would counter that the perception of mistreatment on Gissing's part is as significant as the empirical basis, if any, of his bleak renderings (*Victorian Novelists and Publishers* (Chicago: U of Chicago P, 1976) 1).

⁵⁵ See Guinevere Griest, *Mudie's Circulating Library and the Victorian Novel* (Indiana: Indiana UP, 1970) for a history of the rise and fall of Mudie and the three-decker.

not of course translate into the abolition of all constraints.⁵⁶ By 1895, Gissing was ostensibly writing of the novelist's comparative freedom from 'his bondage of only ten or twelve years ago':

The great thing is, that public opinion no longer constrains a novelist to be false to himself. The world lies open before him, and it is purely a matter for his private decision whether he will write as the old law dictates or to show life its image as he beholds it.⁵⁷

This celebratory passage seems more a wishful rendering of authorial agency than a faithful account of a waning public opinion.⁵⁸ For while the now defunct three-decker format is a 'triple-headed monster, sucking the blood of English novelists' as Gissing claims in *New Grub Street*, the all-consuming machinery of popular success is equally vampiric.⁵⁹ The writer serves, 'not one master, but a whole crowd of them' and as Henry Ryecroft reminisces in the semi-autobiographical *The Private Papers of Henry Ryecroft*, 'Independence, forsooth! If my writing failed to please editor, publisher, public, where was my daily bread? The greater my success, the more numerous my employers. I was the slave of a multitude.'⁶⁰ Given a publishing industry which polarises the claims of artistic integrity and financial exigency, the writer will always be caught between intellectual fulfillment and physical sustenance, a stark choice between the 'literary conscientiousness' of the 'old type of unpractical artist' such as *New Grub Street*'s Edwin Reardon, and profitable mediocrity, the 'good, coarse, marketable stuff' produced by a Jasper Milvain.⁶¹ Even victory in the marketplace yields not independence, but further entanglement, success being a monstrous hydra-like entity that multiplies at will. Where Reardon likens poverty to slavery—both are demoralising and degrading—Ryecroft suggests that the

⁵⁶ Nigel Cross, *The Common Writer: Life in Nineteenth Century Grub Street* (Cambridge: Cambridge UP, 1985) 207. Christina Sjöholm also speaks of a 'more permissive literary climate' in England by the mid-1890s ('"In the Year of Jubilee" and American Grundyism,' *Gissing Journal* 33.1 (1997): 1).

⁵⁷ George Gissing, 'The Place of Realism in Fiction,' *Selections Autobiographical and Imaginative From the Works of George Gissing* (London: Jonathan Cape, 1929) 220-21.

⁵⁸ The date of Gissing's essay is also significant: this was the year of Oscar Wilde's libel suit against the Marquess of Queensberry and his subsequent prosecution for sodomy. Gissing claims here that the author is set free to pursue his literary activities; in the Wilde trials, Wilde's writings were introduced as evidence of criminality, leading ultimately to his incarceration, an extreme counterexample to Gissing's scenario.

⁵⁹ Gissing, *New Grub Street* 235.

⁶⁰ George Gissing, *The Private Papers of Henry Ryecroft* (1903; London: Archibald Constable, 1908) 22-3.

⁶¹ Gissing, *New Grub Street* 359, 43.

alternative of financial success is equally enslaving.⁶² Critiques of consumption most frequently focus on its effects on the consumers of popular cultural forms, but here, consumption refers to the effect of being *consumed* by indiscriminate but indefatigable demands. The privilege of 'private decision,' as concerns the author's choice of subject, is far removed from this grim prognosis.⁶³

Gissing's initial response to Moore's outpouring in 'Literature at Nurse' is uncharacteristically sanguine. Projecting an amicable and pliable reading public, Gissing asserts, '[l]et novelists be true to their artistic conscience, and the public taste will come round.'⁶⁴ Elsewhere, he is less complacent. His proposal to counteract the strictures of the marketplace was not the outright attack on Mudie, which was Moore's strategy, but a radical purging of English literature. According to Gissing, any measure of freedom for the literary practitioner can be attained only under the following conditions:

[T]here will no longer exist a profession of literature, and all but the whole of every library will be destroyed, leaving only the few books which are universally recognized as national treasures.⁶⁵

The foremost condition of Gissing's bibliophilic utopia is not expressive freedom as commonly understood, as in, for example, Grant Allen's 'Hill-Top Novels,' a concept embodying the rural idyll Allen treasures, which allows him 'to say my say in my own way, representing the world as it appears to me, not as editors and formalists would like me to represent it.'⁶⁶ Nor is this vision similar to the 'waning of the plague of book-making' in William Morris's socialist utopia, where books elicit merely antiquarian interest once their ideological function of perpetuating false consciousness is made obsolete.⁶⁷ Gissing's vision is arguably a mandate for censorship of the most extreme, a destruction order under the auspices of aesthetic integrity for virtually the entire body of publications in the history of English fiction.

⁶² Reardon states, 'The curse of poverty is to the modern world just what that of slavery was to the ancient. Rich and destitute stand to each other as free man and bond. You remember the line of Homer I have often quoted about the demoralising effect of enslavement; poverty degrades in the same way' (*New Grub Street* 233).

⁶³ Gissing, 'Place of Realism' 221.

⁶⁴ Letter, *Pall Mall Gazette* (15 December, 1884) repr. in *Literature at Nurse* 45.

⁶⁵ Gissing, *Ryecroft* 197.

⁶⁶ Grant Allen, introduction, *The British Barbarians* (London, 1895) xi-xii.

⁶⁷ William Morris, *News from Nowhere and Other Writings* (1890; Harmondsworth: Penguin, 1993) 58, 175-6.

‘[A]ll but the whole of every library will be destroyed,’ muses the disillusioned Ryecroft, condemning in one stroke, all but the finest of ‘national treasures.’ The extremism of this proposal may well be attributed to Gissing’s fictional persona, but the anxiety over the profusion of literary ephemera recurs in Gissing’s writings. For the problem as Gissing sees it is not the hampering of production, but its indiscriminate proliferation, not censorious constraints but their absence. In this instance, Gissing includes in the ‘collective mediocrity’ of Mill’s masses not only partially literate consumers but also Grub Street aspirants.⁶⁸ At issue is the democratisation of writing, sustained by the professionalisation of authorship. Literature is no longer a vocation, but a trade, one that fuels and is fuelled by a parasitic advisory industry exemplified by the enterprising Whelpdale’s various schemes in *New Grub Street*. Commercialism veiled as encouragement compounds the problem of overproduction, creating a ‘flood of literature [that] swamps everything but works of primary genius.’⁶⁹ From this perspective, Mudie, the circulating library, and the three-decker were censoring mechanisms specific to a historical period; for Gissing, it is the whole structure of the publishing industry that has incapacitated the writer’s art.

This allegation that the nineteenth-century publishing industry functioned as a market-driven censorship in some ways demonstrates a shift in the operation of censorship that Sue Curry Jansen identifies, from the auspices of State and Church to that of the market. This move forms the core of her critique of censorship in contemporary western Liberal societies, her task being to challenge ‘the Enlightenment’s history of itself, [that] the triumph of “The Age of Reason” marked a decisive break with a superstitious, ignorant, and tyrannical past.’⁷⁰ Instead, she contends that this moment saw not the abolition of censorship with the ascendancy of Reason and the dissolution of ecclesiastical and court hegemony, but a mere transferral of ‘the office of Censor from a civic to a private trust.’⁷¹ Jansen’s work is useful insofar as she problematises bifurcated models of censorship that displace censorship onto a political other as ‘a regressive practice of un-Enlightened (non-

⁶⁸ Mill, *CW* 18: 268.

⁶⁹ Gissing, *New Grub Street* 493.

⁷⁰ Sue Curry Jansen, *Censorship: The Knot that Binds Power and Knowledge* (New York: Oxford UP, 1988) 4.

⁷¹ Jansen, *Knot* 4.

Liberal) societies,' but the details of her thesis are simplistic and unsatisfactory.⁷² First, Jansen's model does not account for the ways in which censorship measures are a function of historically specific configurations of power. By shifting the agent of censorship from the state and the church to the market—Jansen maintains that there is no substantive change, merely one of semantics—she is replacing one monolithic model of censorship with another while conflating what are distinct methods of control.⁷³ Jansen may be correct in identifying a 'far more comprehensive and invasive [censorship] than the most Draconian measures envisioned by Roman censors or Spanish inquisitors,' but in attributing this new censorship almost entirely to the market, she overlooks other influences, not necessarily divorced from the market, but certainly significant forces in their own right, such as the scientific discourses I will examine in Part Two or art criticism and theory in Part Three.⁷⁴

Second, Jansen's model is marked by a diachronic bias: the historical linearity of her construction implies that the exigencies of market concerns functioned as a form of censorship only after the demise of court and church hegemony. This is empirically questionable. In the first place, economic pressures were already evident, for example, in the Renaissance dramatist's negotiation between the complexities of the patronage system and the demands of a popular audience, less repressive forms of control which have received much attention in work on early modern censorship.⁷⁵ Another counterexample was the regulation of the Elizabethan print industry, largely in the charge of the High Commission of London with a primary focus on religious matters, and the Stationers' Company with its protectionist policies concerning its members' economic interests.⁷⁶ It is thus incorrect to suggest that market censorship arose as a sequel to state-organised sanctions. At the same time, Jansen understates the role of the state in post-Enlightenment censorship: nineteenth-century obscenity legislation and wartime censorship are two examples which refute her claims.

⁷² Jansen, *Knot* 4.

⁷³ She writes, 'the discontinuity that separates pre- and post-Enlightenment censorships is largely semantic.' Liberalism merely 'secularized the mana of control from fealty to realty. The marketplace, not the priest or feudal lord, became the ultimate arbiter of Liberal power-knowledge' (*Knot* 4, 16).

⁷⁴ Jansen, *Knot* 16. See especially chapter seven, 'Censorship in Capitalist Societies.'

⁷⁵ See, for example, Richard Dutton, *Mastering the Revels: The Regulation and Censorship of English Renaissance Drama* (Iowa City: U of Iowa P, 1991).

⁷⁶ Cyndia Susan Clegg, *Press Censorship in Elizabethan England* (Cambridge: Cambridge UP, 1997) 41.

What is of greater interest to me is Jansen's identification of a 'private trust' as the successor to the church and the state censor.⁷⁷ This idea of a 'private trust' falls within what Jeff Weintraub describes as the model of the public/private distinction conceived in utilitarian-liberal terms.⁷⁸ Within this model, the state is designated public while the private is synonymous with the market. Yet this is only one of four models of this distinction proposed by Weintraub in his useful essay and I would argue that any discussion of censorship must grapple with the complexities of the multifarious nature of the term 'public.'⁷⁹

I started the chapter with a working definition of censorship as the mechanisms that control what enters and circulates in the public domain. Nonetheless, the relationship between censorship and the public entails more than that of filtering. Censorship involves more than the policies and material processes which create and regulate the public domain: censorship itself can also function as a public discourse. That this is so is evident from a brief look at the course of censorship in Britain. Historically, public edicts denouncing specific texts had as much performative as implemental utility. For example, the aim of royal proclamations in Elizabeth's reign was to combat religious and political opposition yet their legal clout was substantially less than that of statute and common law. The efficacy of such proclamations rested in their effectiveness as propaganda, rather than in the direct suppression or destruction of criticism. Thus, a kind of public discursive warfare was inaugurated which pitted official opinion and accounts of events against transgressive articulations.⁸⁰ Likewise, obscenity trials relied more on their publicity value as spectacle than as a means of destroying offensive material.⁸¹

⁷⁷ Jansen, *Knot* 4.

⁷⁸ Jeff Weintraub, 'The Theory and Politics of the Public/Private Distinction,' *Public and Private in Thought and Practice: Perspectives on a Grand Dichotomy*, ed. Weintraub and Krishan Kumar (Chicago: U of Chicago P, 1997) 8.

⁷⁹ Weintraub's other models are: the 'republican virtue' model, which conceives of the public as the world of political debate and decision-making as distinct from the state in its administrative role and the market; the 'sociability' model which differentiates between the private world of the personal realm from the public one of market and bureaucracy; and the model most prevalent in feminist thought that aligns the private with the domestic or familial, and the public with the civic and economic. See also Michael Warner's distinction between 'the public' and 'a public' ('Publics and Counterpublics,' *Public Culture* 14.1 (2002)).

⁸⁰ Clegg 66.

⁸¹ Part Two looks at nineteenth-century censorship trials in greater detail.

In this sense, censorship appears as a public articulation or performance rather than physical acts of filtration and suppression.

In addition to a public discourse *of* censorship, there is also the public discourse *on* censorship, that is, public debates on the function and place of censorship. Discussions, such as *New Review*'s 1890 symposium on 'Candour in English Fiction' to which Walter Besant, Mrs Eliza Lynn Linton, and Thomas Hardy contributed, attest to the controversy surrounding the issue of censorship and its significance in late nineteenth-century cultural life. Other literary discussions, while addressing topics as varied as the nature of realism, literary value, or the role and prerogatives of authorship, were also interventions in the censorship debate, insofar as their common point of departure was the issue of artistic freedom. Within these discussions, allegations of 'censorship' take on polemical value, its pejorative associations particularly striking in a nation which prided itself as one of the foremost liberal states. Again, censorship is shown to be more than the material acts controlling the flow of discursive objects in the public. Rather, censorship is itself a discursive entity that gains currency in its public usage, its meaning and value changing as the term itself circulates in the public.

Moore's use of the epithet in his struggle against Mudie—Mudie's refusal to stock his first novel is denounced as the 'illiterate censorship of a librarian'—best demonstrates its emotive power as polemic tool.⁸² By contrast, J. A. Froude endorses an apposite and constructive censorship in his justification of copyright as 'a censorship which would really divide the good from the bad.'⁸³ Where anti-copyright campaigners condemn copyright as monopolistic and inequitable, Froude presents it as a process of natural canon-formation.⁸⁴ Censorship, figured as an effective winnowing of literary ephemera, is thus divested of its pejorative associations; no longer a travesty against the writer's art, it is now a means of safeguarding the nation's literary future, just as Gissing's Ryecroft muses on the possibility of expunging inferior publications for a greater literary good. These two uses of

⁸² Moore, 'New Censorship' 32.

⁸³ 'The Copyright Commission,' *Edinburgh Review* 148(1878): 342.

⁸⁴ For a discussion of copyright in Britain, see David Saunders, *Authorship and Copyright* (London: Routledge, 1992); Paul K. Saint-Amour, *The Copywrights: Intellectual Property and the Literary Imagination* (Ithaca: Cornell UP, 2003); Clare Pettitt, *Patent Inventions: Intellectual Property and the Victorian Novel* (Oxford: Oxford UP, 2004).

censorship—as derogation and as self-professed altruism—suggest that the term itself is unstable and open to mobilisation for oblique purposes. It is not so much that Moore’s sincerity in his campaign against Mudie should come under question—Pierre Coustillas comments on ‘the justice and utility of Moore’s crusade’ while his biographer, Adrian Frazier, commends the ‘nobility’ of his intentions⁸⁵—but that this hegemonic struggle is not incompatible with his financial interests.⁸⁶ Equally questionable is Froude’s defence of the protectionism of intellectual property law as a benevolent censorship, which scarcely hides his proprietary interest as an author himself. Significantly, Froude’s claim is not just a revaluation of the ethics of censorship, but also of the concept of the ‘public’ and its role in censorship networks. Copyright, he argues, ‘allows a time for public opinion to weigh the merits of each new contribution to its art or to its thought. If at the end of the period it continues in demand, it is thus proved to be really valuable; and then, and not till then, it is passed onto become the property of the nation.’⁸⁷ Where Mill’s public opinion is a censorship of ‘collective mediocrity,’ Froude’s is an erudite minority to which the task of cultural arbitration is arrogated (*CW* 18:268).

As is evident in the different senses of the term as used by Mill and Froude, the notion of the ‘public’ and its etymological variants are multifarious yet historically specific. In its adjectival form characterising the socio-political realm, that is, the ‘public’ of the public domain, the term is most frequently understood in opposition to the notion of the ‘private’ or to ‘secrecy.’ Within the first binary, censorship is understood as that which infringes the private realm, as for example, in Mill’s defence of the individual’s liberty. Within the second, censorship is aligned with secrecy or concealment, set up against openness and freedom.⁸⁸ Another

⁸⁵ Pierre Coustillas, introduction, Moore, *Literature* 18; Adrian Frazier, *George Moore, 1852-1933* (New Haven: Yale UP, 2000) 128.

⁸⁶ These objectives—polemic and financial—converge literally in the material form of Moore’s pamphlet, a denunciation of Mudie’s commercialism that is contained within advertisements for Moore’s own novels inside the front and back covers. Frazier’s description of the entire production and marketing of *A Mummer’s Wife* as a ‘free-market, free-speech attack on the immorality of monopoly and censorship’ likewise points to the overlap in interests (96).

⁸⁷ Froude 342.

⁸⁸ Sissela Bok’s definition of secrecy resonates with this notion of censorship: to keep a secret from someone is ‘to block information about it or evidence of it from reaching that person and to do so intentionally’ (*Secrets: On the Ethics of Concealment and Revelation* (Oxford: Oxford UP, 1982) 6). At the same time, Bok insists that secrecy is not of itself inimical to freedom, arguing that it is necessary for the preservation of autonomy.

variation is the concept of publicity and its part in censorship understood as spectacle or staged performance. Yet this usage is alleged to be counterproductive to the aims of censorship itself. As a noun, the 'public' refers to a general readership, a designation of a particular segment of the population. Yet this 'public' takes on different values and indeed, different referents in various usages. In the early stages of bourgeois development, the term referred to a rationally-thinking citizenry. By the end of the nineteenth century, the 'public' had become synonymous with the 'masses,' as characterised in, for example, Gustave Le Bon's crowd psychology. Mill's ambivalence towards the public and public opinion exemplifies these conceptual confusions. Nor was the term any less equivocal in the literary sphere, for the term implies and imposes a false homogeneity to the literate segments of society. Indeed, the source of dissatisfaction for Moore and Gissing, and as will be discussed in the next chapter, for Henry James and others as well, was precisely the flattening of differences in readerly tastes and desires such that all literature must defer to the embryonic sensibility of the young reader. These complexities are theorised more fully in the work of Jürgen Habermas on the historical evolution of the public and concomitant notions of publicity.

Habermas and the Bourgeois Public Space: Criticism and Censorship

Habermas's *The Structural Transformation of the Public Sphere* charts the emergence of the bourgeois public sphere from its liberal-humanist origins to its perversion and decline in the nineteenth and twentieth centuries. As defined by Habermas, the bourgeois public sphere was the 'sphere of private people come together as a public,' propertied and educated citizens engaging in rational-critical debate.⁸⁹ Emerging as a check to monarchical absolutism, its function was to ensure the legitimacy of rule by compelling an open government answerable to a critically debating public. Authority was no longer guaranteed by privilege and tradition, but was to be secured by the best argument and topics hitherto the preserve of church and state were now brought into the forum of debate and subject to rigorous interrogation by the bourgeois citizenry. In theory, the principles of participatory parity, open

⁸⁹ Jürgen Habermas, *The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society*, trans. Thomas Burger and Frederick Lawrence (1989; Cambridge: Polity, 1992) 27. Further references will be in-text.

discussion, and inclusiveness would obviate the arbitrary exercises of force by institutional powers. All private individuals with requisite wealth and education had, in principle, equal access to the bourgeois public sphere where differences in rank and economic situation were suspended. As the arena of open discussion, the bourgeois public sphere enshrined a series of basic rights that have been integral to subsequent debates over censorship: freedom of opinion, freedom of the press, and freedom of speech. This was the arena in which *voluntas* could be transformed into *ratio*, a concept of a power-free discourse that would persist in Habermas's later work (83).

In the context of a history of censorship in Britain, it is significant that in the 'model case' of the British public sphere, Habermas specifies the abolition of pre-publication censorship with the Licensing Act of 1695, together with the founding of the Bank of England and the first cabinet government, as significant events in its development (58-9). In so doing, Habermas sets up a paradigm of political legitimacy that opposes publicity and reason to repression and monarchical caprice, albeit in a highly idealised model, and significantly, mandates an unfettered press for its efflorescence. Moreover, these three events draw together three elements of importance to a study of censorship: publication and the press; commercial interests; and the state. In the particular context of *literary* censorship, Habermas's account of the eighteenth-century public sphere in the world of letters that anticipated and provided the blueprint for its counterpart in the political realm is of particular interest. The institutional infrastructure developed in the precursor literary public sphere—geographically, the coffee houses and salons in which participants congregated, and socially, the book clubs and societies where communal bonds were formed—laid the grounds for the emergence of the political public sphere (51). Literary discussions developed modes of rational critique and cultivated the public use of reason, while the nascent domestic novel with its psychological explorations forged a new bourgeois subjectivity, interpellating readers as 'privatized individuals' (50). The reader replicates in life private relationships depicted in fiction, even as he animates fiction from his own experiences. This drive to self-knowledge produced the individual as private subject with the critical capacity to probe and to interrogate, attributes that were to characterise the bourgeois citizen in the political public sphere.

A vibrant literary culture in terms of an active production, consumption, and discussion of literature was thus a pre-requisite for the emergence of a political public sphere that was to underwrite liberal democracy. Conversely, literary censorship, as an impediment of the above, has serious political consequences.

Yet from the nineteenth century onwards, the overextension of the bourgeois public sphere led to its degeneration. With electoral reform and the extension of franchise, the public sphere expanded to the degree that the bracketing of differences and individual interests was no longer tenable. Instead of consensus on common goals and values arrived at through rational debate, the public sphere was now an arena of negotiation and compromise in which private interests competed for primacy. The effect was a 'mutual infiltration' of the public and private, a 'reciprocal permeation of the state by society and of society by the state' (151). This merging was due to, on the one hand, neomercantilist state policies—increased state intervention that was eventually to lead to the welfare state—and on the other, a refeudalisation of the public sphere—the taking over of public functions by private institutions and a reversion to mechanisms of representative publicity (142). There was, in effect, a 'societalization' of the state and a 'statetification' of society. The political public sphere degenerated into a 'pseudo-public,' a 'sham-private world of culture consumption' where critical debate no longer entailed rational political will formation but was an administered semblance of its former political function, a form of pseudo-critique (160). No longer a critically debating public, this 'pseudo-public' became passive consumers of an administered culture, dupes of the 'culture industry' (161). In the eighteenth century, the enlargement of the public sphere was effected through the elevating of the petty bourgeoisie: '[t]he "people" were brought up to the level of culture; culture was not lowered to that of the masses' (166). In this later mutation, the reverse was true, resulting in a 'psychological facilitation' that depoliticised the literary and the journalistic (169). The historical trajectory thus presented by Habermas maps out more generally Mill's changing conceptualisation of the public from political force to censoring mechanism, from rational citizenry to mindless rabble, as well as his equivocal attitude towards the press and the newspapers. Mill's anxieties over the weaknesses of representative democracy have eventuated in Habermas's account: the refeudalisation of the public sphere attests to

the intrusion of sinister interests and class bias into politics while interventionist state policies stem from the kind of paternalistic logic that Mill argued was inimical to self-cultivation. Likewise, the debasing of culture mirrors the warnings by Moore against a feminised literature and Gissing against a literature dictated to by the partially literate. In Gissing's *New Grub Street*, Jasper Milvain's adroit handling of the commerce of literature and cunning successes in the profession place him at the forefront of Habermas's culture industry. Literary and social commentators in common trace the degeneration of the late-century public from a community of critically debating individuals to an amorphous mass.

However, even at its apotheosis in the late-eighteenth and early-nineteenth centuries, the emancipatory ideal of the bourgeois public sphere was never attained. Nancy Fraser points to the gender exclusions largely untheorised by Habermas, claiming that his privileging of the bourgeois sphere as the premiere public realm is at the expense of other counterpublics, albeit less hegemonic ones.⁹⁰ Elsewhere, Habermas is accused of overlooking plebeian and proletarian publics; the virtues of rational criticism and publicness idealised as bourgeois values were in fact available to and appropriated by popular political movements. Concomitantly, Habermas fails to deal with the radical press as part of the literary sphere.⁹¹ David Zaret disputes Habermas's interpretation of history, locating instead the incipience of the public as a political force in early modern petitioning rather than the eighteenth-century bourgeois public.⁹²

Moreover, the establishing and preservation of a public space of unconstrained discussion unavoidably constitute an act of censorship, a point cogently made by Richard Burt. Contrary to its purported inclusiveness, the Habermasian public sphere, according to Burt, is itself a 'censored and censoring space.'⁹³ In order to ensure the inviolability of a public sphere of debate, any force

⁹⁰ Nancy Fraser, 'Rethinking the Public Sphere: A Contribution to the Critique of Actually Existing Democracy,' *Habermas and the Public Sphere*, ed. Craig Calhoun (Cambridge, Massachusetts: MIT Press, 1993) 114. For an overview of feminist criticism of Habermas, see Pauline Johnson, *Habermas: Rescuing the Public Sphere* (London: Routledge, 2006) 33-6.

⁹¹ See, for example, Geoff Eley, 'Nations, Publics, and Political Cultures: Placing Habermas in the Nineteenth Century,' *Habermas and the Public Sphere*, ed. Craig Calhoun (Cambridge, Massachusetts: MIT Press, 1993) 289-339.

⁹² David Zaret, *Origins of Democratic Culture: Printing, Petitions, and the Public Sphere in Early-Modern England* (Princeton, New Jersey: Princeton UP, 2000).

⁹³ Richard Burt, introduction, Burt, *Administration* 18, 19.

threatening its autonomy must be expelled. In this paradoxical logic, the discursive space that is in theory free from the distortions of censorship is itself protected by an act of censorship: the censor must be censored to preserve the freedom of discourse. Burt takes particular aim at scholars of censorship who, following Habermas, claim the public sphere as ‘a space of discursive circulation opposed to censorship.’⁹⁴ Any such dichotomy is historically and theoretically erroneous, for these practices do not form a static binary but are situated on a ‘continuum.’ Instead of being a process that dismantles and unveils censorship, criticism is itself a form of censored and censoring discourse. ‘Calling someone a censor is a means of excluding that person from dialogue,’ Burt claims, an assertion that brings a new perspective to George Moore’s contretemps with Mudie.⁹⁵ Where Mudie exercises an ‘intolerable’ censorship by proscribing Moore’s works, by this definition, Moore’s accusations and championing of the ‘liberty of speech’ are equally censorious.⁹⁶ Their struggle exemplifies Burt’s conceptualisation of censorship as a process of legitimation and delegitimation, as ‘a complex network of productive discursive practices that legitimate and delegitimate the production and reception of the aesthetic in general.’⁹⁷ Where Mudie’s censorship segregates transgressive from permissible cultural artefacts, Moore’s censorship of delegitimation not only challenges Mudie’s individual pronouncements but seeks to exclude him from the realm of the aesthetic altogether. These are not antithetical acts of censorship and counter-censorship; indeed, they are not even different in kind, but merely similar processes of delegitimation located along Burt’s ‘continuum.’ Reading Burt in conjunction with Fraser and others then, one might conclude that the public sphere censors both internally (Fraser uses the term ‘intrapublic relations’), by determining who may legitimately speak, and externally (‘interpublic relations’), not only by suppressing counterpublics but by upholding the bourgeois public sphere as the only legitimate arena of discussion and deliberation.⁹⁸

⁹⁴ Burt, introduction 19.

⁹⁵ Burt, introduction 18.

⁹⁶ Moore, ‘New Censorship’ 32.

⁹⁷ Richard Burt, “‘Degenerate ‘Art’”: Public Aesthetics and the Simulation of Censorship in Postliberal Los Angeles and Berlin,” Burt, *Administration* 220.

⁹⁸ Fraser, ‘Rethinking the Public Sphere’ 121.

Further, not only does the public sphere as described by Habermas constitute a 'censored and censoring space,' Habermas's description of the public sphere, especially in its decline, is itself censoring and censoring. It is in the latter part of his thesis that Habermas's Frankfurt School roots become most evident, largely in the pessimistic rendering of modern mass culture. Significantly, the terms with which he deplores the breakdown of a literary culture proper are much reminiscent of, say, the denigration of the gothic in the late-eighteenth century, the anxieties over sensation fiction in the mid-nineteenth century, or the attacks on 'ephemeral' genres in the *fin de siècle*, as for instance, 'New Women' fiction or French naturalism. Commenting on a commercialised and debased press, Habermas criticises its output as 'ready-made convenience, patterned and pre-digested' in a rhetoric that is not far removed from, for instance, Henry James, lamenting in 1899 the 'demoralization, the vulgarization of literature in general, the increasing familiarity of all such methods of communication, the making itself supremely felt, as it were, of the presence of ... the reader irreflective and uncritical.'⁹⁹ Both are censorious statements, insofar as they attempt to trivialise certain cultural processes by invoking superior aesthetic practices. Habermas's commentary is not just observation and analysis then, but a continuation of a cultural critique offering a similar diagnosis of cultural malaise, and in Burt's terms, a form of censorship.

While conceding *Structural Transformation*'s shortcomings, it is still necessary to clarify Habermas's position. It is not that Habermas is unaware of the exclusionary nature of the public sphere or of the fact that the model public sphere was never realised historically. The difficulty in his work is that it is at once theoretical and empirical. As Geoff Eley points out, Habermas, in his critique of mass culture in the Frankfurt School tradition, is less interested in historical particularities than in the normative value of the model public sphere.¹⁰⁰ This aspect of Habermas's work is particularly salient in the context of censorship: at once referring to material practices in history and involving theoretical discussion, censorship studies also straddle the uneasy conjunction of theory, praxis, and resistance. In part because of this tenuous balancing act between the theoretical and

⁹⁹ Habermas, *Structural Transformation* 169; James, 'Future of the Novel' 34.

¹⁰⁰ Eley 292.

the empirical, Habermas in his later work moves away from the historical in what is known as his 'linguistic turn.'

The Linguistic Turn: Habermas and Theories of Censorship¹⁰¹

In his later work, Habermas moves away from socio-historical structures of rationality to find normative criteria for judgement in the transhistorical values inherent in communicative action. While the interest in communication and intersubjectivity is already evident in Habermas's early work on the public sphere, these issues are brought more sharply into focus in his 'universal pragmatics,' which seek to 'identify and reconstruct universal conditions of possible understanding.'¹⁰² For Habermas, the goal of every communicative action is to come to a mutual and reciprocal understanding, and every communicative action presupposes a set of validity claims, consensus on which can be arrived at through rational debate: claims to rightness in a normative context, to truth, and to truthfulness.¹⁰³ For interlocutors to come to an agreement presupposes consensus on these three claims which correspond to the social world of interpersonal relations, the objective world, and the subjective world: that there is a normative basis for what is being said, and moreover, that these norms can be defended rationally; that what is being said is a truthful statement about the objective world; and that the utterance is a sincere and truthful expression of the speaker's subjective experience. These ideals are universalisable, insofar as they are internal to every speech act, but this is not an abstract universalism, because discourse ethics is rooted in the pragmatics of speech.¹⁰⁴ It is

¹⁰¹ This section is not intended as an in depth analysis of Habermas's communicative theory. What I take from Habermas is his shift in focus from historical structures to communicative interactions. This overview thus serves two purposes: first, to contextualise Sue Curry Jansen's use of Habermas to theorise resistance against censorship which I will examine below; and second, to set up a framework for rethinking censorship.

¹⁰² Jürgen Habermas, 'What is Universal Pragmatics?' *Communication and the Evolution of Society* trans. Thomas McCarthy (1979; Cambridge: Polity, 1991) 1.

¹⁰³ Jürgen Habermas, *The Theory of Communicative Action*, vol. 1, *Reason and the Rationalization of Society*, trans. Thomas McCarthy (1981; Beacon: Boston, 1984) 307.

¹⁰⁴ Thus Habermas focuses on the validity claims presupposed by each utterance rather than the grammatical structure of each sentence (Emilia Steuerman, *The Bounds of Reason: Habermas, Lyotard and Melanie Klein on Rationality* (London: Routledge, 2000) 23-5; Thomas McCarthy, 'Translator's Introduction,' Habermas, *Communicative Action I*).

to these ideals that Habermas turns to salvage what he calls the unfinished project of modernity.¹⁰⁵

Habermas defends this project by repudiating pessimistic accounts of its failure, ones which posit the ascendancy of instrumental rationality and the triumph of bureaucracy at the expense of a loss of meaning. Such accounts, as exemplified in the sterile purposive reason informing Max Weber's constricting 'iron cage' vision of modern society, are a narrow construal of reason which fails to differentiate between means-end rationality and communicative rationality. All action, Habermas argues, can be classified into strategic action, that is, 'success-oriented' action, and communicative action, that is, action 'oriented to reaching understanding.'¹⁰⁶ The former refers to action 'exerting an influence *upon* others' and is motivated by self-interest, while the latter involves 'coming to an understanding *with* them' and is motivated by reciprocity in communication. This prepositional difference suggests that while strategic action enforces an asymmetrical relationship, that is, one of domination and mastery, communicative action implies intersubjective parity. For Habermas, communicative action is the '*original mode* of language use,' and is thus prior to strategic or instrumental action, which is 'parasitic' on communicative action, and it is this priority that forms the basis for Habermas's attempt to ground critique in a philosophy of language.¹⁰⁷

These two forms of action and the respective rationalities underwriting them provide the 'inner logic' of the lifeworld and the system respectively, two ways of conceptualising society neither of which is sufficient in isolation of the other.¹⁰⁸ The lifeworld, 'represented by a culturally transmitted and linguistically organized stock

¹⁰⁵ Jürgen Habermas, 'Modernity: An Unfinished Project,' trans. Nicholas Walker, *Habermas and the Unfinished Project of Modernity: Critical Essays on The Philosophical Discourse of Modernity*, ed. Maurizio Passerin d'Entrèves and Seyla Benhabib (Cambridge: Polity, 1996) 44.

¹⁰⁶ Habermas, *Communicative Action I* 286.

¹⁰⁷ Habermas, *Communicative Action I* 288. In 'What is Universal Pragmatics?' Habermas claims that all forms of social action, including 'conflict, competition, strategic action in general—are derivatives of action oriented to reaching understanding' ('What is Universal Pragmatics?' 1).

See Jonathan Culler for a critique of how Habermas falsely imputes primacy to communicative action. Habermas aligns communicative action to J. L. Austin's illocutionary acts and strategic action to perlocutionary ones in order to demonstrate this primacy, but as Culler argues, illocutionary acts are not always geared towards understanding as Habermas presumes, but towards producing effects ('Communicative Competence and Normative Force,' *New German Critique* 35 (1985): 136).

¹⁰⁸ Jürgen Habermas, *The Theory of Communicative Action, Volume 2: The Critique of Functionalist Reason*, trans. Thomas McCarthy (1981; Cambridge: Polity, 1989) 333.

of interpretive patterns,' is the domain of communication with the aim of mutual understanding.¹⁰⁹ The system, on the other hand, is the domain of strategic actions controlled by the steering media of power and money.¹¹⁰ The lifeworld is the site of the symbolic reproduction of society—of cultural knowledge, group memberships, and personalities—through the medium of communicative action.¹¹¹ The material reproduction of society—'securing its physical maintenance'—is effected 'through the medium of the purposive activity with which sociated individuals intervene in the world to realize their aims,' and involves what Habermas calls 'social labour.'¹¹²

For Habermas, the rationalisation of the lifeworld is not in itself pathological. As societies become more complex, the lifeworld structures (culture, society, person) become more differentiated and autonomous. Social integration is now secured not so much by normative means, that is, by recourse to tradition, but communicatively, that is, through negotiated consensus. While this development gives greater scope for communicative rationality, it also leads to greater potential for problems and the breakdown of consensus. At the same time, systemic mechanisms—'delinguistified media of communication' such as power and money—become detached from their norm-based lifeworld anchors. The process of differentiation only becomes pathological when these systemic mechanisms penetrate the lifeworld such that the lifeworld itself degenerates into a subsystem, subsumed under and distorted by the imperatives of the system. This 'uncoupling' of lifeworld and system—the 'internal colonization' of the lifeworld by the system—is what Habermas calls a '*second-order* differentiation,' and it is this encroachment and uncoupling that constitute the crisis of modernity.¹¹³ Habermas argues that the project of modernity can be recovered by looking to the emancipatory potential in language. The lifeworld might

¹⁰⁹ Habermas, *Communicative Action* 2 124. The lifeworld is 'the transcendental site where speaker and hearer meet, where they can reciprocally raise claims that their utterances fit the world (objective, social, or subjective), and where they can criticize and confirm those validity claims, settle their disagreements, and arrive at agreements' (*Communicative Action* 2 126).

¹¹⁰ See Nancy Fraser for a critique of Habermas's androcentrism and his failure to consider gender as another steering mechanism ('What's Critical about Critical Theory? The Case of Habermas and Gender,' *New German Critique* 35 (1985)).

¹¹¹ Habermas writes, '[u]nder the functional aspect of *mutual understanding*, communicative action serves to transmit and renew cultural knowledge; under the aspect of *coordinating action*, it serves social integration and the establishment of solidarity; finally, under the aspect of *socialization*, communicative action serves the formation of personal identities' (*Communicative Action* 2 137).

¹¹² Habermas, *Communicative Action* 2 110, 138, 232

¹¹³ Habermas, *Communicative Action* 2 356, 155.

be reanimated and its domain bolstered against the colonising drive of the system, not by rejecting rationalisation *tout court*, but by fostering a form of communicative rationality unconstrained by the imperatives of the system. Communicative rationality can thus be rescued from instrumental rationality, and the social scientist secures for critique a powerful and recuperative role:

The same structures that make it possible to reach an understanding also provide for the possibility of a reflective self-control of this process. It is this potential for critique built into communicative action itself that the social scientist, by entering into the contexts of everyday action as a virtual participant, can systematically exploit and bring into play outside these contexts and against their particularity.¹¹⁴

By appealing to the validity-claims implicit in communication in everyday practice, Habermas attempts to secure for critique a universal but non-utopian grounding. By reintegrating differentiated domains into the sphere of praxis, a process of decolonisation can be engendered and cultural impoverishment reversed.¹¹⁵

While I am aware of the theoretical differences between Foucault and Habermas, a rigorous examination of their argument is beyond the scope of this thesis.¹¹⁶ Nonetheless, given the influence of Foucauldian notions of power on censorship studies, I will comment briefly on this aspect of their quarrel. Amongst other criticisms, Habermas alleges that Foucault's theory of power is relativistic and cryptonormative. Habermas claims that a self-referential theory of power that reduces truths to the effects of power undermines Foucault's own critique of the human sciences.¹¹⁷ The counterpowers that emerge as nodes of resistance are co-opted into new regimes of power and thus Foucault fails to articulate a coherent resistance.¹¹⁸ On his part, Foucault is unconcerned by the contingent nature of these resistances: as its ever-present antagonist, these resistances are 'the odd term in

¹¹⁴ Habermas, *Communicative Action* 1 121.

¹¹⁵ See also 'Modernity: An Unfinished Project' 52-3.

¹¹⁶ For discussion of Foucault and Habermas, see the essays in Michael Kelly ed., *Critique and Power: Recasting the Foucault/Habermas Debate* (Cambridge Massachusetts: MIT Press, 1994).

¹¹⁷ Jürgen Habermas, 'Some Questions Concerning the Theory of Power: Foucault Again,' Kelly 91.

¹¹⁸ Such criticisms of Foucault are not uncommon. Edward Said, for example, alleges that Foucault fails to differentiate between the forceful subjugation of individuals and adherence to societal norms, designating both as operations of power, and in the process, exhibits a 'singular lack of interest in the force of effective resistance' ('Foucault and the Imagination of Power,' *Foucault: A Critical Reader*, ed. David Hoy (Oxford: Blackwell, 1986) 151).

relations of power; they are inscribed in the latter as an irreducible opposite.¹¹⁹ To assert that power is omnipresent is not a capitulation to a deterministic model of power since the statement also implies the omnipresence of resistance; indeed, omnipresence is not omnipotence, and power's existence is unsettlingly dogged with the potential for confrontation with its opposite.¹²⁰ For Foucault, an effective critique need not be articulated outside of power structures nor need recourse to normative grounds.¹²¹

I do not seek to intervene in what one critic calls 'fundamental disagreements between Foucault and Habermas,' but rather, suggest that this particular divergence on the issue of power foregrounds two ways of conceptualising censorship and resistance.¹²² The first follows a broadly Habermasian path, looking to the underlying claims of communicative consensus as a procedural framework for ensuring that power is exercised openly and rationally. Sue Curry Jansen, as I will discuss below, follows this approach in her concept of 'reflexive power-talk' as a means of 'asserting some control over our controllers.'¹²³ The second looks towards the symbiosis of power and resistance, arguing that censorship engenders its own opposition. Judith Butler's argument that censorship enables each intelligible utterance while producing the possibility of 'counter-speech' at each instance, or Michael Holquist's claim that censorship is always thwarted by the elusive potential of language (both discussed below), pursue this second path of inquiry. Indeed, Mill's warning against the incursions of public opinion onto rational discussion, and Stephen's notion of the necessary incompleteness of any act of censorship, might align loosely to these two approaches.

Following Habermas, Sue Curry Jansen looks towards communicative norms as a way of understanding censorship while avoiding both emancipatory myths of

¹¹⁹ Foucault, *History of Sexuality* 96.

¹²⁰ Foucault thus points out, '[w]e can never be ensnared by power: we can always modify its grip in determinate conditions and according to a precise strategy' ('Power and Sex,' trans. David J. Parent, *Politics, Philosophy, Culture: Interviews and Other Writings 1977-1984* ed. Lawrence D. Kritzman (New York: Routledge, 1988) 123).

¹²¹ See James Schmidt for a cogent defence of Foucault against Habermas's charges ('Habermas and Foucault,' *Habermas and the Unfinished Project of Modernity: Critical Essays on The Philosophical Discourse of Modernity*, ed. Maurizio Passerin d'Entrèves and Seyla Benhabib (Cambridge: Polity, 1996).

¹²² Schmidt 167.

¹²³ Jansen, *Knot* 10.

Enlightenment and a totalising conceptualisation of power: Habermas is '[o]ne of the best hopes,' she argues, in attempting to 'develop "rational" and equitable rules for conducting legitimating debates.'¹²⁴ What is required is a means of 'identifying, monitoring, challenging, debating, and, where warranted, legitimating forms of organized censorship' and she takes Habermas's ideal speech situation as a blueprint for her concept of 'reflexive power talk':¹²⁵

Reflexive power-talk is a method for identifying and criticizing the socially structured silences which make arbitrary forms of censorship possible. It is also a strategy for democratizing dialogic opportunities and outcomes. It offers a recipe for conducting legitimating discourses according to egalitarian rules: rules based upon principles of rationality, consistency, and equity.¹²⁶

Like Habermas, Jansen's interest is not in the content of debate but in the procedural rules that ensure fair and equitable debate, and the prevailing of the better argument. The principle of rationality demands that power must be justified according to the best argument, and that the criteria for assessing the best argument must themselves be open to rational scrutiny. The principle of consistency enables equal participation by abolishing epistemological privilege, which, Jansen argues, is a check against state secrecy and the dominance of a professional elite. The principle of equity is upheld by the demand for reflexivity: '[p]ositions must be secured by strong arguments, not merely by strong arms or strong credentials.'¹²⁷ All participants must abide by the rules of rational argumentation with no a priori exclusions or privileges. Jansen thus sides with Habermas in her belief in the emancipatory potential of rational discourse and in the possibility of inaugurating a 'new enlightenment'—terms themselves reminiscent of Habermas's 'project of modernity'—as a means, not of abolishing censorship, but of making visible the technologies of power.¹²⁸

Jansen's solution may be compelling, but there are theoretical deficiencies in her proposals. Her understanding of language as that which requires 'double-reading,' for instance, is based on a simplistic and rigid surface/depth model, and she

¹²⁴ Sue Curry Jansen, 'The Censor's New Clothes: Censorship in Liberal Societies,' *Patterns of Censorship Around the World*, ed. Ilan Peleg (Boulder: Westview, 1993) 200.

¹²⁵ Jansen, 'Censor's New Clothes' 191.

¹²⁶ Jansen, *Knot* 9. As Jansen herself states, her 'reflexive power-talk' derives from and modifies Bruce Ackerman's concept of 'Neutral Dialogue,' but I am more interested in the Habermasian tenets of her solution.

¹²⁷ Jansen, *Knot* 210.

¹²⁸ Jansen, *Knot* 208.

has been accused of bypassing the post-structuralist problematisation of language.¹²⁹ Moreover, holding up Habermas's ideal speech situation as a counter-censorship blueprint is less straightforward than it appears. In a critique echoing Richard Burt's reservations about the idealising tendencies of Habermas's public sphere, Thomas Dumm points out that the 'operation of the censor' can be found in Habermas's delineation of an ideal speech situation, 'in that the proliferation of regulations and conditions that will determine the reasons underlying ideal speech acts are themselves laws that prohibit and confine the use of language between and among those who are designated as speakers and listeners.'¹³⁰ That is, the ideal speech situation does not so much map out a power-free space undistorted by conditions and stipulations as itself depend on certain conditions and stipulations to guarantee its status. Jonathan Culler makes a similar point: if Habermas has failed to demonstrate the primacy of communicative over strategic action (see note 107 above), then positing the norms inherent in communicative action as a grounding for critique misrepresents choice, on the part of Habermas, as a self-evident primacy, a choice which requires the relegating of other forms of action to a secondary status.¹³¹ Jansen's procedural blueprint, it would seem, entails a priori and hidden exclusions. What is significant for my purposes here is the weight Jansen gives to rational discourse as a means of resisting censorship: in Chapter Two, I look at Henry James's *The Awkward Age* and suggest that resistance can be imagined outside such idealising structures.

This shift in focus in Habermas's work is akin to, although not homologous with, a turn in the direction of scholarship on censorship, both perhaps being symptomatic of a more general linguistic turn. This shift is most evident in debates over the censorship of pornography, where arguments against pornography have moved beyond allegations of direct causal harm, whether to its consumer or to those

¹²⁹ Jansen, *Knot* 197. See, for example, Eva Etzioni-Halevy, rev. of *Censorship: The Knot that Binds Power and Knowledge*, by Sue Curry Jansen, *Contemporary Sociology* 19.2 (1990); Norman K. Denzin, rev. of *Censorship: The Knot that Binds Power and Knowledge*, by Sue Curry Jansen, *American Journal of Sociology* 95.3 (1989).

¹³⁰ Thomas Dumm, 'What Does It Matter Who is Speaking? Census, Censor, Address,' Bard College, 12 Nov. 2005 <http://www.bard.edu/hrp/resource_pdfs/dumm.whoisspeaking.pdf>

¹³¹ Culler thus writes of the ideal speech situation: 'the model for an ideal society said to be inescapably presupposed in communicative action itself, emerges as the result of a series of exclusions of those communicative activities that do not seem to presuppose these norms' ('Communicative Competence' 141).

involved in its production, to claims, articulated within a framework of Austinian speech act theory, that pornography as a speech act silences and subordinates women.¹³² The appropriation of linguistic models to conceptualise censorship can also be seen in Michael Holquist's work. Eschewing traditional models of censorship predicated on antagonism between censor and censored, Holquist argues instead that theirs is a symbiotic relationship akin to the structuralist notion of the linguistic sign. 'Any act of censorship,' Holquist claims, 'like any sign, is riven in its heart by a fatal division: the prohibition that separates what is banned from what is permitted also fuses them; the signifying sound and the signified meaning are at once divided and joined within the linguistic sign.'¹³³ It is likewise to language that he turns to explain why censorship, though never fully divestible, is also never complete. Censorship, he avers, 'comes to hate all that is uncertain' and language, which is intrinsically heteroglossic, by nature resists such incursions.¹³⁴

In a similar move away from traditional models of censorship as 'explicit prohibitions,' Pierre Bourdieu locates censorship at the level of discourse formation, a 'structural' censorship operating in the constitution of a field of knowledge: 'it is the structure of the field itself which governs expression by governing both access to expression and the form of expression, and not some legal proceeding which has been specially adapted to designate and repress the transgression of a kind of linguistic code.'¹³⁵ The agency of censorship inheres not in an individual subject but in the field of knowledge itself, and censorship is not a conscious nor a deliberate act but the implicit inscribing of subject positions and the demarcating of the speakable domain. Beyond the 'manifest censorship imposed by orthodox discourse,' beyond the overt struggles between 'right' and 'wrong' opinion, is a more fundamental censorship which 'delimits the universe of possible discourse'—that which can be stated, whether as orthodoxy or heterodoxy—from that which is literally beyond

¹³² Catherine MacKinnon refers in passing to Austin, but the idea is more stringently developed by Rae Langton. As a *locutionary* act, pornography is speech that *depicts* subordination. By this depiction, it is an act of *perlocutionary* subordination. Finally, and most significantly for Langton, pornography subordinates and silences through *illocutionary* disablement (See Rae Langton, 'Speech Acts and Unspeakable Acts,' *Philosophy and Public Affairs* 22.4 (1993); 'Subordination, Silence, and Pornography's Authority,' *Post*).

¹³³ Michael Holquist, 'Corrupt Originals: The Paradox of Censorship,' *PMLA* 109.1 (1994): 17.

¹³⁴ Holquist 19.

¹³⁵ Pierre Bourdieu, *Language and Symbolic Power*, trans. Gino Raymond and Matthew Adamson (Cambridge: Polity, 1991) 138.



dispute—doxa—that which is undebatable because unspeakable or unthinkable.¹³⁶

The agonism between ‘right’ and ‘wrong’ opinions ostensibly played out on an open battleground is in effect conducted in a circumscribed arena. The two levels of censorship described here are mutually reinforcing: the play of ‘right’ and ‘wrong’ creates a semblance of discursive freedom that obscures the more insidious censorship of doxic material, whose legitimacy, once arbitrarily determined, is now seen as natural and inevitable.

There can therefore be no clear separation between the form of articulation and its substantive content, when speaking of how censorship operates. Significantly, those who speak with the greatest authority are the most subject to the structural constraints of the field, the ‘norms of official propriety.’¹³⁷ That this is so will be seen in Chapter Three, when I look at how Nordau, one of the key proponents of degeneration, was himself attacked by the normative values set out by his work, and in Chapter Four, when I discuss how Ellis’s science of sexology was judged and defended not just in terms of thematic content (the topic of sexual inversion) but also according to the disciplinary norms of science (such as stylistic propriety).

Bourdieu makes a persuasive argument for the significance of structural constraints, but his formulation seems overly rigid and uni-directional, allowing no room for the potentially subversive impact of the agent on the system. Bourdieu claims that

[t]he need for this [structural] censorship to manifest itself in the form of explicit prohibitions, imposed and sanctioned by an institutionalized authority, diminishes as the mechanisms which ensure the allocation of agents to different positions (and whose very success ensures their anonymity) are increasingly capable of ensuring that the different positions are occupied by agents able and inclined to engage in discourse (or to keep silent) which is compatible with the objective definition of the position.¹³⁸

Agents are conceived as passive entities: they are ‘allocated’ to certain positions and they merely ‘occupy’ these positions. Subject positions within the field are already-inscribed, and the authority of intelligibility comes at the price of conforming to predetermined positions. For Judith Butler, Bourdieu offers a useful account of how

¹³⁶ Pierre Bourdieu, *Outline of A Theory of Practice*, trans. Richard Nice (Cambridge: Cambridge UP, 1977) 169-70.

¹³⁷ Bourdieu, *Language* 138.

¹³⁸ Bourdieu, *Language* 138.

copyright functions as implicit disciplinary norms, but erroneously imputes the power of utterance to sedimented social institutions and structures, to 'established contexts of authority and their instruments of censorship.'¹³⁹ Rather, Butler argues that this performative force emerges at each iteration: Bourdieu's static formulations both misread the provenance of performative power and foreclose the possibility of resistance, for each iterative instance is also the point of potential rupture and subversive reinscription. These contentions are central to Butler's own attempt to theorise censorship beyond notions of sovereign subjectivity.

Butler argues that beyond the conventional definition of censorship as that which suppresses speech is a form of censorship that occurs prior to speech as that which determines the conditions of intelligibility: it is 'the constituting norm by which the speakable is differentiated from the unspeakable.'¹⁴⁰ The subject in language is thus always-already subject to a censorship in the form of the rules and norms which govern the domain of speakability and to speak of censorship is to be already complicit in a form of censorship that authorises the speaking subject. Conventional representations of censorship as a force wielded by the state or an individual against another individual are predicated on the existence of an autonomous subject who is outside and in control of power. Language from this perspective is of purely instrumental value, a transparent medium of communication the use of which is the prerogative of the sovereign subject. The claim that the pornographer or the utterer of hate speech silences or subjugates by frustrating the expressive capacity of their victims is founded on this normative view of political agency as the ability to guarantee the felicitous conclusion of a speech act, to borrow an Austinian concept.¹⁴¹ There is in this view, according to Butler, a dual misrecognition of sovereignty. On the one hand, the offensive speaker is erroneously ascribed as the primary source of injurious power, leaving intact the historical and social conditions empowering these utterances. This argument has obvious implications for combative strategies against hurtful speech. On the other hand, the

¹³⁹ Judith Butler, *Excitable Speech: A Politics of the Performance* (New York: Routledge, 1997) 141.

¹⁴⁰ Butler, *Excitable* 137-8.

¹⁴¹ Butler takes issue in particular with the pro-censorship attacks on pornography by Catherine MacKinnon and Rae Langton, and Mari Matsuda's call for the regulation of words that wound. The political subject for them, she argues, is construed as one with 'the ability not only to represent one's intention in speech but to actualize one's intention through the act of speech' (*Excitable* 92).

recourse to legal mechanisms of suppression is also an imputation of a false sovereignty: we confer on the language of the law the authority to silence hurtful or transgressive discourse, in effect resuscitating 'conventional notions of mastery.'¹⁴² Standard accounts of censorship which merely attempt to deliberate between alternative forms of sovereign expression are thus theoretically untenable.

According to Butler, the performative force of injurious speech, and indeed, of any speech, inheres in its iterative structure:

If a performative provisionally succeeds ... then it is not because an intention successfully governs the action of speech, but only because that action echoes prior actions, and accumulates the force of authority through the repetition or citation of a prior and authoritative set of practices.¹⁴³

The privileging (or misrecognising) of the moment of utterance as the origin of the performative—the 'overdetermination of the scene of utterance'—is in fact an elision of the performative's temporality, a historicity that indicts more than the individual but the framing historical and cultural structures as well.¹⁴⁴ The positing of a sovereign subject as the 'fictive origin' of injurious speech is a compensatory gesture for a 'fundamentally unprosecutable history,' the attraction being the apparent ease with which cessation of and retribution for an act of injury can be exacted.¹⁴⁵ Conceding the temporal unboundedness of the performative, Butler claims, is not an abdication of individual responsibility at the level of praxis, but a recognition that responsibility lies not in 'origination' but in 'citation.'¹⁴⁶ Instead of a myth of linguistic origins, Butler posits what might be called a chain of interpellation, since agency in language presupposes subservience to a prior interpellative power, whose authority was itself conferred by a prior interpellative act, and so on.

Censorship, conceived not as a repressive force but as an enabling one—in its inauguration of the speaking subject through determining the dual domains of speakability and unspeakability—is thus a productive force in the Foucauldian sense. Borrowing catachrestically from psychoanalysis, Butler uses the term 'foreclosure' to designate this understanding of censorship as that which 'permits speech by

¹⁴² Butler, *Excitable* 15.

¹⁴³ Butler, *Excitable* 152.

¹⁴⁴ Butler, *Excitable* 80.

¹⁴⁵ Butler, *Excitable* 50.

¹⁴⁶ Butler, *Excitable* 39.

enforcing the very distinction between permissible and impermissible speech.¹⁴⁷ In the post-sovereign world, the constitutive act of foreclosure must be continually re-enacted—the post-sovereign subject, the ‘I’ of the utterance, comes into being and must be affirmed at each utterance—and it is in this reiteration, in the radical instability of its temporality and the disjuncture between the utterance and meaning, that the potential for resistance arises. For Butler, this potential for rupture is post-sovereign agency. The constitutive or interpellative act is rendered vulnerable to a subversive resignification or restaging, a ‘kind of speaking that takes place on the border of the unsayable [and] promises to expose the vacillating boundaries of legitimacy in speech.’¹⁴⁸ Linguistic dubiety thus engenders a ‘counter-speech’ that threatens to redraw the limits of the intelligible.

Butler’s concept of foreclosure is a useful corrective to a theoretically problematic opposition between a predatory censorship and an essentialised notion of speech as pure utterance, yet this awareness should not preclude an examination of post-constitutive acts of censorship. Similar questions about subjectivity and agency have been raised from the perspective of gender politics. For Seyla Benhabib, Butler’s ‘Nietzschean position’ undermines the feminist emancipatory project: the subject, conceived merely as a discursive effect, is too deterministic a construction, leaving no room for agency.¹⁴⁹ Butler’s performative model of subjectivity thus erodes the individual’s capacity to critique, change, or resist dominant structures, and dissipates any basis for solidarity. Nancy Fraser is more willing to concede the necessity of the deconstructive moment, but questions the efficacy of resistance theorised as linguistic subversion. The issue, she suggests, springs from how Butler conceptualises the problem in the first place. If Butler’s target is subjectivication through language, then resignificatory processes that destabilise these identities may be sufficiently effective protest. But Fraser argues that this strategy, weighted towards the deconstructive, fails to offer concrete alternatives for praxis: what is

¹⁴⁷ Butler, *Excitable* 139.

¹⁴⁸ Butler, *Excitable* 41.

¹⁴⁹ Seyla Benhabib, ‘Feminism and Postmodernism: An Uneasy Alliance,’ Nicholson 21; ‘Subjectivity, Historiography, and Politics: Reflections on the “Feminism/Postmodernism Exchange,”’ Nicholson, 110. On her part, Butler claims merely to have ‘[recast] *agency within matrices of power*,’ rather than to have dismissed the possibility of agency in its entirety (‘For a Careful Reading,’ Nicholson 133)

needed is 'both deconstruction *and* reconstruction.'¹⁵⁰ Resignification, unlike critique, lacks 'the normative moment' and thus the basis from which to differentiate between good and bad forms of signification.¹⁵¹ At the same time, Butler's project, despite her disavowal, is implicitly normative, though her stark terms—'reification of performativity is bad, dereification is good,' according to Fraser—are of little use.¹⁵² Linda Nicholson also questions Butler's concept of resignification on evaluative grounds, but goes further to argue that Butler does not provide any means of distinguishing resignifying iterations from iterations which are merely repetitive.¹⁵³ Nicholson is thus sceptical of the extent to which a linguistic theory of subject constitution can account for change.

Butler does deal with material instances of censorship—the 'don't ask, don't tell' policy of the US military, and the pornography debates, to name two—but her primary objective is to outline a politics of resistance that does not rely on state intervention nor resuscitate essentialist or sovereign concepts of subjectivity. With this commitment to the discursive realm, there is lesser consideration of non-discursive forces, as for instance, the vulnerability of subversive articulations to incorporation by the economic sphere. Butler's model does not account for the complicity between censor and marketplace nor the reification of marginality by commerce. As I will show in Chapters Three and Five, both censorship and resistance can be subject to further resignification. Nordau's pathologisation of Zola and French naturalism invested the entity of 'Zola' with a racy attraction, while Whistler's revisionist account of the *Whistler v. Ruskin* trial showed how the symbolic capital of dissident notoriety could be translated into economic capital.

The 'linguistic turn' in censorship studies has led to a more nuanced understanding of censorship and is most valuable in dislodging the traditional view that presupposes a censoring power wielded by the state or its surrogate against its subjects. This 'new scholarship on censorship,' as Robert Post calls it, under the influence of Foucault, conceives of power no longer as locatable and tangible, but dispersed and pervasive, not negative and repressive, but productive and

¹⁵⁰ Nancy Fraser, 'False Antitheses: A Response to Seyla Benhabib and Judith Butler,' Nicholson 71.

¹⁵¹ Fraser, 'False Antitheses' 69.

¹⁵² Nancy Fraser, 'Pragmatism, Feminism, and the Linguistic Turn,' Nicholson 162.

¹⁵³ Linda Nicholson, introduction, Nicholson, 11.

generative.¹⁵⁴ Yet the more inclusive model brings with it a new set of problems. Like Foucault to whom it is so indebted, the new censorship has been accused of losing specificity. As Frederick Schauer argues, the concept of censorship has become ‘so expansive as to be empty.’¹⁵⁵ By focusing on the productive nature of censorship—its function in constituting intelligible discourse, its indispensable role in enabling communication—such studies risk overlooking the ways in which censorship can and does encompass repressive activity. It would seem that we are at somewhat of an impasse. On the one hand, more traditional examinations of the material processes of censorship tend to bypass the theoretical insights offered by Butler, Bourdieu, and others. On the other, a focus on the linguistic or discursive nuances of censorship may seem divorced from praxis and problematises, if not renders redundant, an ethical or oppositional stance.

In the next chapter, I turn to Henry James as a way of exploring these issues. As a participant in the late-century publishing world, James can be considered a case study of a writer negotiating the exigencies of audience and market. James wrote fairly extensively on issues such as authorial freedom and stylistic constraints, while in his fiction, he also dealt with tropes and issues salient to the censorship debate, such as the young female reader, innocence and knowledge, evil and corruption, and communication and silence. James himself was never subject to overt instances of censorship nor was he as belligerent a combatant as Moore in the debate, but this arguably less blatant position vis-à-vis censorship seems fitting when considering a censorship that, according to Mill, was beyond that enforced by ‘whips and scourges’ (*CW* 18: 277).

¹⁵⁴ Robert Post, ‘Censorship and Silencing,’ introduction, Post 3.

¹⁵⁵ Schauer 160.

Chapter 2

Henry James and Censorship

In the previous chapter, I suggested that there are broadly two tendencies in censorship studies: the first has a more empirical focus, looking at censorship as material practices in history; the second has a more theoretical focus, questioning the definitions of censorship and their implications. This latter trend, turning towards the linguistic, has been criticised for expanding the category of censorship to point where it is of little theoretical use, while the focus on a more constitutive level risks overlooking more explicit forms of control. At the same time, if entry into language entails having always-already capitulated to a form of censorship, then it is also true that there is no metalanguage available with which to examine censorship. It is into this theoretical affray that I wish to insert Henry James. My aim in this chapter is to look at James, not just as a writer negotiating the nineteenth-century literary field, but also as a way, if not of overcoming, then of exploring, the impasse that seems to have hindered recent censorship studies.

James himself occupies an ambiguous position in censorship debates. On the one hand, his circuitous style and alleged homosexuality have led some to see in his work a kind of self-censorship, to detect in his writing evidence of the internalisation of social injunctions against non-normative behaviour.¹ On the other hand, others

¹ Eve Kosofsky Sedgwick's reading of 'The Beast in the Closet' is typical of this approach: 'the possibility of an embodied male-homosexual thematics ... is present as a—as a very particular, historicized—thematics of absence, and specifically of the absence of speech' (*Epistemology of the Closet* (New York: Harvester Wheatsheaf, 1990) 201).

Eric Savoy offers a useful historical overview of Jamesian queer criticism. Savoy makes a tentative distinction between gay and queer readings, the former with a biographical focus and seeking to recuperate James for a gay history, while the latter locates the homoerotic in the text itself, looking at discursive effects and sexual themes. Savoy does concede, however, that the two categories are not

have noted the surprising audacity with which he flouts social and narrative convention.² I also contend that James's work can be used to connect the two aspects of censorship discussed above. In the traditional sense of censorship as the external pressures to which an author is subject, James, as a prominent figure in the publishing world, was very much enmeshed in these forces. At a time when literary censorship was less explicit than threats of imprisonment or destruction orders, critical censure itself became a form of non-coercive censorship. For David McWhirter, indignant responses to James's fiction, on account of both its formal innovations and its subjects, were 'almost explicit threats of censorship.'³ Like Moore and Gissing, James was himself alert to the constraints placed on the writer by the demands of his reading public and it is in this respect that his work and his awareness of these work conditions are consonant with Habermas's examination of the public sphere. This consonance can be seen in the thematic affinities between James's fictional explorations and Habermas's narrative of decline: the manipulation of publicity; the nature of the literary marketplace and the culture industry; the rise of modern advertising; the dissolution of the distinction between the public and the private domains: these are common issues in both their works.⁴ As Richard Salmon claims, 'James's cultural criticism may, indeed, be read as a prolonged experiential articulation of the historical process which Habermas externally and retrospectively reconstructs.'⁵ In this usage, Habermas's *Structural Transformation* acts as

mutually exclusive ('*Entre chien et loup*: Henry James, Queer Theory, and the Biographical Imperative,' *Henry James Studies*, ed. Peter Rawlings (Houndmills: Palgrave Macmillan, 2007)).

² See, for instance, David Kurnick, "'Horrible Impossible": Henry James's Awkward Stage' *Henry James Review* 26.2 (2005) or Kevin Ohi, who alleges that 'the sexuality in the work of this legendarily reticent writer is sometimes startlingly perverse' ("The novel is older, and so are the young": On the Queerness of Style,' *Henry James Review* 27 (2006) 140).

³ David McWhirter, "'Saying the Unsayable": James's Realism in the Late 1890s,' *Henry James Review* 20.3 (1999): 237.

⁴ For discussions of James in these areas, see Jean-Christophe Agnew, 'The Consuming Vision of Henry James,' *The Culture of Consumption: Critical Essays in American History 1880-1980*, ed. Richard Wightman Fox and T. J. Jackson Lears (New York: Pantheon, 1983); Jonathan Freedman, *Professions of Taste: Henry James, British Aestheticism, and Commodity Culture* (Stanford: Stanford UP, 1990); Richard Salmon, *Henry James and the Culture of Publicity* (Cambridge: Cambridge UP, 1997); Ian F. A. Bell, *Henry James and the Past: Readings into Time* (Houndmills, Basingstoke, Hampshire: MacMillan, 1991).

⁵ Salmon 8. Eric Leuschner places James in the 'transitional moment between the critical public sphere and the more diffused one of advertising,' which in turn led to contradictory desires on James's part: on the one hand, the longing for popular acclaim from the mass market, and on the other, nostalgia for the rational-critical public sphere of the past ("Utterly, insurmountably, unsaleable": Collected Editions, Prefaces, and the "Failure" of Henry James's New York Edition,' *Henry James Review* 22.1 (2001): 30.

supplementary contextualisation, a useful backdrop for locating James in the late nineteenth-century milieu. James's fictional explorations of publicity and the public and his publishing experiences can then be understood as an interaction with, and negotiation of, a fragmented public as delineated by Habermas. This is the public as social tyrant, in Mill's terms, a public whose demands and conventions in effect create a censorious regime, albeit under the veneer of a bourgeois sociability.

In addition to this sense supplied by Salmon, James's work also has salience in the context of what I've called the 'linguistic turn' in censorship studies. If, as Butler and others have argued, censorship is more than a purely negative and repressive force, but is that which enables communication, then James's fascination with the structures of communication, its possibilities and its failures, can be seen as an early engagement with what in current theorisations is deemed a form of censorship. Insofar as we can no longer say that censorship merely inhibits communication but that it enables it, James's exploration of the possibilities of communication when these networks are distorted is particularly instructive. Where Jansen sees in the communicative ideal the basis for ethical action, James explores such potential in the violation of these communicative norms. James is less interested in the ideal speech situation than in the failure of communication, in its distortion and manipulation, and in the power relations permeating these communicative networks. These problems of communication—the difficulties in finding a receptive audience, the possibility of community, the forces thwarting intercourse—are dealt with both fictively and in his critical writings. More radically, communicative experimentation is also carried out performatively by James's texts: these frequently enact the problems of communication, demonstrating for the reader, and also implicating the reader in, the hermeneutic ambiguity in any act of communication.

The rest of this chapter is divided into two sections. First, I discuss 'The Art of Fiction' as a commentary on artistic prerogative, looking at his pronouncements in the context of extant views on writing and authorship. I show how issues of literary form and method debated on the public stage are continuous with more explicit debate on censorship and freedom. Next, I turn to *The Turn of the Screw* and *The Awkward Age*. Not only do these two texts explore topics that are central to the

censorship debate, they also dramatise processes of textual communication to forge a new critical and ethical reading public.

The Censoring of Taste and the Censoring of Form: The Art of Fiction

James's most candid plea for artistic licence is in his 1884 essay, 'The Art of Fiction,' in which he asserts that the foremost condition for the 'good health' of literary art is that 'it be perfectly free.'⁶ In this work, he does not depart significantly from the anti-censorship arguments of, say, George Moore. James argues for a literary art free from all coercive and normative forces, whether the demands of audience and market, the moralistic injunctions of evangelism, or the rules and conventions of artistic practice. In terms of strategy and tone, however, the essay lacks the acrimony of Moore's attack on circulating libraries and their clientele. As polemical practice, Moore's writings astutely and ruthlessly identify an arch-villain in Mudie, deploying affective delegitimizing rhetoric, at times descending to the vitriolic. Yet Moore presents a simplified version of censorship, useful as self-aggrandisement, but overstating his role in the fight against censorship.⁷ If Mudie is designated censor on high, his national library network the infrastructure of power, and the three-decker his weapon of domination, then the overthrow of his stronghold and of the cultural primacy of the three volume format—through cheap first editions and free public libraries—would logically signal the end of *all* censorship, with Moore's standing as freedom's champion becoming correspondingly inflated. James advances a more nuanced reading of market forces, one that recognises the complexities and fragmented nature of the late nineteenth-century public.

To appreciate James's more nuanced understanding, I will turn, not to Moore, but to Walter Besant, to whose lecture of the same title James's essay was a response. Both are ostensibly defences of fiction, calling for recognition of the novel

⁶ Henry James, 'The Art of Fiction,' *The Critical Muse: Selected Literary Criticism*, ed. Roger Gard (Harmondsworth: Penguin, 1987) 91.

⁷ Moore's part in the demise of the three-decker was not indispensable, although his contribution was fairly substantial. His collaboration with rogue publisher Henry Vizetelly (whose problems with censorship are dealt with in Chapter Three) in both the publication of *Literature at Nurse*, his 'polemic' on censorship, and the single volume *A Mummer's Wife*, would signal his renegade status.

as a serious and legitimate art form. If we take Richard Burt's definition of censorship as a process of delegitimation, then this legitimating project forming the core of both texts renders both counter-censorship efforts in Burt's terms. For James, 'the province of art is all life, all feeling, all observation, all vision', just as fiction's 'field' for Besant is 'the whole of Humanity,' yet their approaches are in fact ideologically, conceptually, and methodologically different.⁸ For Besant, the diminution of the novel arises from the absence of institutional structures, professional qualifications, pedagogical expositions, and other signifiers of value by which the novelistic arts might receive public recognition. Besant thus counters the majority, and trivialising, view of writing as a frivolous pastime—the claim that the novelist is merely 'a person who tells stories'—by adducing the rigour of compositional laws, 'those general rules and principles which must necessarily be acquired by every writer of Fiction before he can even hope for success.'⁹ By contrast, James indicts such prescriptive measures as censorious constraints, whether as a priori conditions imposed on artistic execution or as dogmatic criteria for gauging value. The development of art depends on discursive dynamism, for it 'lives upon discussion, upon experiment, upon curiosity, upon variety of attempt, upon the exchange of views and the comparisons of standpoints.'¹⁰

There are two points to note here. First, the valorisation of productive discord and discursive struggle resonates with Mill's anti-censorship arguments. For Mill, a 'living truth' can only be sustained through continual testing; for James, a living art is forged through contestation: good art 'derives a considerable part of its beneficial exercise from flying in the face of presumptions.'¹¹ Second, although art is presented as an adversarial process, at this point for James, the forces which seek to stifle it might still be combated by untrammelled discursive exchange that is both 'frank and sincere.'¹² He sees the growing public interest in the theory of the novel as 'signs of returning animation,' ushering in, hopefully, an 'era of discussion'; indeed, the dialogue between James and Besant attests to some degree to the existence of a late-

⁸ James, 'Art of Fiction' 200; Walter Besant, *The Art of Fiction* (London, 1884) 9.

⁹ Besant 5, 14.

¹⁰ James, 'Art of Fiction' 187.

¹¹ Mill, *CW* 18: 243; James, 'Art of Fiction' 198.

¹² James, 'Art of Fiction' 187.

century version of a literary public sphere.¹³ Such exchanges were not uncommon, with issues like censorship, the function of fiction, or the nature of realism, being debated with vigour in journals such as the *Pall Mall Gazette* or *The New Review*. While official participants were largely drawn from literary circles, these discussions frequently elicited responses from the broader reading public through letters to the editor.¹⁴ James promotes a form of discussion valuing openness and participation that is not unlike that of Jansen. As I will discuss below, in James's later fiction, the feasibility of this kind of 'frank and sincere' exchange becomes highly questionable.

Underlying Besant's and James's divergent approaches to regulatory principles are their different understandings of two concepts: the nature of realism, and the relationship between author and reader. Besant promotes a character- and story-driven narrative form governed by strict fidelity to life, a conception of the novel that seems to curtail severely the writer's scope and sits uneasily with his earlier call for literary freedom. For Besant's understanding of fidelity is a strictly empiricist one: 'the conditions of place, of manners, and of thought must be drawn from personal experience' and the writer is adjured 'never to go beyond your own experience.'¹⁵ Such are the demands of a reading public to which the writer must comply, a public which 'recognise before any other quality that of fidelity,' which measure 'the greatness of a novelist ... chiefly by the knowledge of the world displayed in his pages.'¹⁶ Of other technical aspects of the novel, they are by and large impervious. This is the reading public that was so problematic for Moore and Gissing, yet Besant's approach is placatory even while he is condescending in his characterisation of this public. Moreover, Besant's elevation of character and plot entails a narrative practice that in its selective process institutes a regime of self-discipline that ruthlessly excises all, to Besant, extraneous elements of narrative, and

¹³ James, 'Art of Fiction' 187.

¹⁴ Michael Warner's comments on the eighteenth-century literary public sphere are pertinent here: publications such as serials, newsletters, and almanacs 'developed reflexivity about their circulation through reviews, reprintings, citation, controversy. These forms single out circulation both through their sense of temporality and through the way they allow discourse to move in different directions. I don't speak just to you; I speak to the public in a way that enters a cross-citational field of many other people speaking to the public' (66). The intertextual exchange between Besant's lecture and James's essay formed part of broader debates over fiction that traversed different periodicals, addressing, and in the moment of addressing, constituting, specific publics, as, for example, Besant's addressees of fellow authors, a particular journal's readership, and so on.

¹⁵ Besant 16.

¹⁶ Besant 16.

is articulated in terms not unfitting for the most particular of censors: 'All descriptions which hinder instead of helping the action, all episodes of whatever kind, all conversation which does not either advance the story or illustrate the characters, ought to be rigidly suppressed.'¹⁷ James takes issue with this hierarchy of narrative components, questioning the efficacy, and indeed, the possibility, of separating, for example, description and dialogue, or character and incident. These elements rather '[melt] into each other at every breath and [are] intimately associated parts of one general effort of expression.'¹⁸ Jamesian mimesis involves not the rendering of experience into story as such, but the creation of 'the illusion of life,' the success of which depends on the extent to which 'the air of reality (solidity of specification)' is produced.¹⁹ James's famous dictum that '[a] novel is in its broadest definition a personal impression of life' suggests that its value may be judged purely 'according to the intensity of the impression,' and such intensity, he adds, can only be had if 'there is freedom to feel and say.'²⁰ Literary realism and literary freedom are thus inextricably connected; freedom from censorship becomes not merely the most felicitous conditions for the writer's art, but a constitutive element of genre itself.

It is on the basis of these contrasting attitudes to realism that Vivien Jones argues that while Besant looks to external criteria for legitimation, James turns inwards to authorial sensibility in his conception of literary impressionism.²¹ At this stage though, this claim is not entirely true. While eschewing the public validation that Besant courts, James, in his attempt to rescue the beleaguered fictional genre, nevertheless appeals to an equally public institution, that of the discipline of history. Literature, James contends, 'must speak with assurance, with the tone of the historian,' and the task of both novelist and historian is to 'represent and illustrate the past, the actions of men.'²² As Roslyn Jolly cogently argues, James, in a temporal sleight, suggests that the novel, rather than generating narrative in its unfolding, recounts events *post factum*, thereby harnessing for the novel the epistemological

¹⁷ Besant 20.

¹⁸ James, 'Art of Fiction' 196.

¹⁹ James, 'Art of Fiction' 195.

²⁰ James, 'Art of Fiction' 192.

²¹ Vivien Jones, *James the Critic* (London: Macmillan, 1985) 130.

²² James, 'Art of Fiction' 189.

authority of history.²³ The intentions of this generic alignment are twofold: first, to appropriate for the novel the disciplinary gravitas accorded a 'science,' and thus to combat allegations of either frivolity or falsehood, and second, to absolve the author from moral considerations. Claiming to deal exclusively and objectively with the facts of the past as history does, the novel cannot by definition be bound by petty concerns of propriety, its commitment to historical truth exempting it from bourgeois sensibility. Yet as Jolly rightly points out, in emphasising the facticity of realism, James inadvertently replicates anti-fiction prejudices by denying and derogating the fictionality of narrative.²⁴ James purports to battle against the 'weight of ... proscription,' whether in the form of the 'old evangelical hostility to the novel' or a more contemporaneous dismissal of the novel as 'only a "make belief",' but in the end, he is less confrontational than he supposes, having retained and reinforced a value system underlying these very proscriptive measures.²⁵ This early attempt to circumvent censorship thus fails to move beyond the terms of censorship's discursive regime.

That Besant adheres to an older moral code is more evident. For Besant, the power of the novel inheres in its efficacious didacticism, its ability to impart moral values without the overt sermonising that alienates:

[The novel] gives ideas, it strengthens faith, it preaches a higher morality than is seen in the actual world; it commands the emotions of pity, admiration, and terror; it creates and keeps alive the sense of sympathy; it is the universal teacher; it is the only book which the great mass of reading mankind ever do read; it is the only way in which people can learn what other men and women are like.²⁶

²³ Roslyn Jolly, *Henry James: History, Narrative, Fiction* (Oxford: Clarendon, 1993) 24-5. Gert Buelens and Celia Aijmer offer a different reading: 'it is not the epistemological status of history that James is after, but rather the authority [with which the historian speaks]' ('The Sense of the Past: History and Historical Criticism,' *Henry James Studies*, ed. Peter Rawlings (Houndmills: Palgrave Macmillan, 2007) 194). Rawlings attributes a more voracious nature to James's relationship with history in 'The Art of Fiction,' claiming that the essay is rather 'an emphatic repudiation of positivist history and its law-seeking proclivities.' This invoking of history is thus less an 'affiliation' than an 'appropriation' (*Henry James and the Abuse of the Past* (Houndmills: Palgrave Macmillan, 2005) 4, 6). Despite these different interpretations of James's engagement with history, it is nonetheless true that he ventured beyond the literary to seek authoritative models elsewhere.

²⁴ Jolly, 33.

²⁵ James, 'Art of Fiction' 188.

²⁶ Besant 8-9.

Besant here attempts to recuperate the potency of fiction, but his conceptualisation of its force remains within a framework of Protestant meliorism and Utilitarian logic. Besant's objective, as was that of the Society of Authors, of which he was chairman from its inception in 1884 to 1892, is to assert the social and professional standing of the novelist in the context of the late-century cultural scene. However, in invoking this powerful 'sense of sympathy,' he in effect harks back to a Dickensian publishing clime in which the readership addressed was largely a uniform one and whose outlook and values, in turn, were largely consonant with those of the author.²⁷ In contrast to this return to a nostalgic harmony, James depicts a literary field riven with antagonism. In his short fiction of this period, the public is presented as a rapacious and vulgar force wielding an immense power, dangerous, because arbitrary and indiscriminating. The hapless writer Neil Paraday, 'a prime attraction, a creature of almost heraldic oddity,' is 'capture[d]' and exhibited by the formidable yet fickle Mrs Wimbush, herself a 'blind violent force,' in 'The Death of the Lion.'²⁸ Her capricious attentions are no less stultifying than those of Miss Hurley, whose initial desire 'to look straight into his face' is sublimated into an equally obsessive compulsion to avoid contact.²⁹ In 'The Next Time,' Ray Limbert's attempts to court popular success in his unavailing experiments to produce 'the mediocrity that attaches, that endears,' the 'middling good,' are enervating and lead ultimately to his death.³⁰ Even in death, the author is not immune from the intrusive attentions of the public, as demonstrated by the morbid voracity with which the narrator of *The Aspern Papers* pursues Jeffrey Aspern's 'sacred relics.'³¹ John Goode attributes this difference to how each writer conceives of the relationship between fiction and its

²⁷ Bradley Deane charts the changing concept and conditions of sympathy from the mid- to late-nineteenth century (*The Making of the Victorian Novelist: Anxieties in the Mass Market* (New York: Routledge, 2003)). See also Patrick Brantlinger, *The Reading Lesson: The Threat of Mass Literacy in Nineteenth-Century British Fiction* (Bloomington and Indianapolis: Indiana UP, 1998). Peter D. McDonald maps a similar shift in attitude from Wilkie Collins's 'populist enthusiasm' for the 'unknown public' in 1858 to Edmund Gosse's anxieties about the democratisation of the literary in 1891 (*British Literary Culture and Publishing Practice 1880-1914* (Cambridge: Cambridge UP, 1997) 6).

²⁸ Henry James, 'The Death of the Lion,' *The Complete Tales of Henry James*, ed. Leon Edel, vol. 9 (London: Rupert Hart-Davis, 1964) 94, 95.

²⁹ James, 'The Death of the Lion' 99.

³⁰ Henry James, 'The Next Time,' *The Complete Tales of Henry James*, ed. Leon Edel, vol. 9 (London: Rupert Hart-Davis, 1964) 210. There are obvious similarities to Gissing's cynicism in *New Grub Street*.

³¹ Henry James, 'The Aspern Papers,' *The Aspern Papers and Other Stories* (Harmondsworth: Penguin, 1976) 38.

public. While Besant is confident of the salutary effect of fiction on its readers, James's primary concern is the public's assault on novel and writer.³² For Besant, fiction acts on its reader; the novel functions as a curative, as a kind of Arnoldian cultural restorative that promotes social cohesion by fostering a sense of sympathy.³³ James, by contrast, reverses the schema and it is the reader instead who acts on fiction. Like Moore, James rejects the censor's tutelary justifications for intervention: it is not the reader who needs protection from a literature that corrupts, but literature that must be preserved from its readers.

It is important not to overstate James's antipathy towards his public. Much has been said of James's abortive foray into theatre in the 1890s and subsequent disillusion with an unappreciative public.³⁴ Yet in 1898, when addressing the 'question of numbers' in the American reading public, albeit using an alarmist rhetoric of deluge and excess—he refers to 'the flood of books,' 'the fast-arriving billion,' 'the extraordinary dimensions of the public'—James, with a somewhat uncharacteristic optimism given his negative depictions of the reading public, allows that it is also a question of opportunities as well.³⁵ Here, James muses on the possibility of the market not as artistic nemesis but as untapped potential, reversing, if briefly, the Habermasian narrative of the internal colonisation of the lifeworld by the system. The market, the exemplary nineteenth-century system, and its habitué, 'the typical American figure' of the businessman 'whom the novelist and the dramatist have scarce yet seriously touched,' with their potential for epic heroism, might provide ample new material for the literary imagination.³⁶ Yet as Millicent Bell points out, James did not avail himself of these opportunities.³⁷ But as significantly, James reveals a sensitivity to the exigencies of the literary marketplace that was perhaps missing in Besant's appeal to an anachronistic, homogeneous

³² John Goode, 'The Art of Fiction: Walter Besant and Henry James,' *Tradition and Tolerance in Nineteenth-Century Fiction: Critical Essays on Some English and American Novels*, ed. David Howard, John Lucas, and Goode (London: Routledge and Kegan Paul, 1966) 261.

³³ I return to Arnold in Chapter Six.

³⁴ See, for example, Marcia Jacobson, *Henry James and the Mass Market* (University, Alabama: U of Alabama P, 1983).

³⁵ Henry James, 'The Question of the Opportunities,' *The American Essays of Henry James*, ed. Leon Edel (New York: Vintage, 1956) 197, 199, 203.

³⁶ James, 'Question' 202.

³⁷ Millicent Bell, 'James, the Audience of the Nineties, and *The Spoils of Poynton*,' *Henry James Review* 20.3 (1999): 222.

public. One's readership, James asserts, 'is really as subdivided as a chessboard, with each little square confessing only to its own *kind* of accessibility.'³⁸ This fragmentation of the public is viewed less with trepidation than as a specification of audience, and should warn us against imputing to James any facile deprecation of the public as the new agent of censorship.

This timorous optimism in tense conjunction with a brasher denunciation of the reading public in the short stories recall Mill's ambivalence towards the public. Mill's democratic model of government was predicated on inclusion and participation, yet the precautionary measures and specific exemptions written into his model suggest his awareness that the body politic, expanding at an unprecedented rate, could also—and without guidance, was likely to—degenerate into an irrational, censorious force. Likewise, James's benign treatment of the 'question of numbers' is tempered by the more hostile depictions of a vulgar public infringing on the author's life and work.

If the texts discussed in this section deal with these material conditions of the author's profession—the most 'restricted conditions' of any age or country, by George Moore's hyperbolic account³⁹—in *The Awkward Age* and *The Turn of the Screw*, James explores ideas and tropes that inform the operation of this censorship.

Innocence and Corruption, Inclusion and Exclusion: *The Awkward Age* and *The Turn of the Screw*

If 'The Art of Fiction' is James's disquisition on censorship and artistic prerogative, *The Awkward Age* (1899) is his most direct fictional exploration of the freedom of social intercourse and the trope of the innocent female, a figure at the centre of censorship debates throughout the century. The novel takes as its object of study the case, as James informs his reader in the 1908 Preface, 'in a circle of free talk, of a new and innocent, a wholly unacclimatized presence, as to which such accommodations have never had to come up.'⁴⁰ Mrs Brookenham's circle, with its

³⁸ James, 'Question' 200.

³⁹ Moore, 'Literature at Nurse' 19.

⁴⁰ Henry James, preface, *The Awkward Age* (1899; Harmondsworth: Penguin, 1987) 5. Further references will be given in-text.

reputation as a ‘temple of analysis’ (205) is not unlike the salons of the eighteenth century referred to by Habermas, and indeed, is described by Vanderbank in terms reminiscent of Habermasian rational discourse: ‘What *is* splendid, as we call it, is this extraordinary freedom and good humour of our intercourse and the fact that we do care—so independently of our personal interests, with so little selfishness or other vulgarity—to get at the idea of things’ (179). Yet where Habermas in *Structural Transformation* is alleged to idealise the nature of public discourse and its emancipatory potential, James, by contrast, is more interested in how social intercourse is constrained and how intersubjective bonds are forged, not only through consensus and common interest, but through exclusionary mechanisms as well. Where Habermas errs in understating, in Richard Burt’s words, the ‘censored and censoring’ tendencies of the public sphere, James’s interest here is the ways in which talk is both censored and censoring. What is explored here and elsewhere is the obverse of Habermas’s theory: where Habermas looks to the emancipatory potential of communicative action, James examines the constraints in communication and the ethical potential in and the ethical imperative demanded by these constraints.

As James himself comments, his novel examines the cross-Channel differences in handling the awkward presence of ‘the hovering female young’: on the one hand, ‘the inveterate English trick of the so morally well-meant and so intellectually helpless compromise’ and on the other, the ‘wise arrangement’ of Continental proprieties in which the ‘better the talk prevailing in any circle, ... the more organized, the more complete, the element of precaution and exclusion’ (7). The trope of reading and the nature of the offensive text, issues at the heart of literary censorship, are used to explore these national differences and the efficacy and ethical implications of each respective system. As Tessa Hadley argues, James’s interest in his fictional readers is almost ‘anthropological’: reading, especially in his later fiction, is ‘social performance,’ and the significance of books resides less in their contents than in their sociological implications.⁴¹ Thus, in *The Awkward Age*, for example, reading ‘operate[s] as an initiation into significant groups,’ and the book ‘becomes a marker for performances of permitted and impermissible sexual

⁴¹ Tessa Hadley, ‘Seated Alone With a Book ...’ *Henry James Review* 26.3 (2005): 230.

knowledge.’⁴² This symbolic significance is emphasised in an early scene in which Longdon recalls meeting Vanderbank’s ‘awfully clever’ brother: ‘I lent him books—partly, upon my honour, to make him think that, as I had them, I did know something’ (29). The signifying relationship between book and reader, or perhaps more accurately, between book and possessor, is explicitly stated here; knowledge in the abstract, incarnated in the material form of the book, is metonymically transferred to its possessor.

James further exploits this configuration of book, reader, and knowledge in his study of his cases, Nanda and Aggie, readers respectively of an ‘impossible book’ and a ‘possible’ one (197, 145). Product of Continental principles, little Aggie’s sequestered state is both sustained and defined by her unobjectionable reading practice and materials. Her docile nature corresponds to the innocuousness of the bowdlerised history that the Duchess seeks for her, a text that ‘leaves the horrors out,’ being both metonym and metaphor for its young reader (145). This comparison is more than a figurative one. In thus aligning Aggie with her expurgated history, James gives a sly indication that her purity of mind is merely a transitory state. The censored text and the *tabula rasa* of Aggie’s mind share a similar vacuity but in a kind of temporal chiasmus, we see that the insubstantiality of the text results from the expunging of provocative material while Aggie’s unblemished status is merely prelude to the provocation of experience. Her face, though ‘[f]ormed to express everything ... scarce expressed as yet even a consciousness’ and she is, in Longdon’s view, a ‘slate [on which] the figures were yet to be written,’ but the chiasmic construction, taken to its logical ends, gestures towards the moment of inscription, the anticipatory ‘yet’ signalling the imminence of the act (147, 146). This sanitisation of history also recalls Thomas Bowdler’s projects earlier in the century. In the introduction to his edition of Gibbon’s *Decline and Fall*, Bowdler describes his efforts to expunge objectionable—‘on account of irreligious tendency or indecent expression’—matter: ‘From defects of this nature, it is extremely desirable that historical composition should be as strictly guarded as possible.’⁴³ Here, too, there is an implicit conflation of text and young reader, for both are to be ‘strictly guarded.’

⁴² Hadley 232.

⁴³ Thomas Bowdler, introduction, *Gibbon’s History of the Decline and Fall of the Roman Empire* by Edward Gibbon, vol. 1 (London, 1826) xi.

The earnestness with which Bowdler undertook this censorious task is lost when the post is transferred to the Duchess. The pragmatic thoroughness of her actions accedes readily to what was only implied through an unintentional association of ideas in Bowdler's assertion that his expurgatory practices were 'extremely desirable': the fetishisation of purity by the social institutions of courtship and marriage, and censorship's complicity with it.

It is also a bibliographical association that characterises Aggie's initiation into society. Her marriage to Mitchy renders her 'accessible' to Petherton, who in the past had been co-opted into the protective guard by the Duchess, but now engages in a less innocent game of hide and seek involving the 'impossible book' (255, 197). The precipitousness with which Aggie 'come[s] out' leads Vanderbank to question how 'she apparently *was*,' which in turn 'make[s] one wonder a little *if* she was' (247, 225). The question thus raised is whether censorship fulfills a protective function or whether it merely defers the moment at which feminine purity is revealed to be an expedient fiction. Nanda's situation likewise encapsulates this predicament. In his preface, James informs us that 'Nanda's retarded, but eventually none the less real, incorporation means virtually Nanda's exposure.'⁴⁴ James is here referring to Nanda's exposure to the '*mal' aria*,' as the Duchess has it, of Mrs Brookenham's drawing room (159), but there is another sense in which the novel stages Nanda's 'exposure.' Not only is she exposed, in the sense of being rendered vulnerable, but she is also exposed in the sense of a disclosure, with the public revelation of 'the preposterous fiction, as it after all is, of Nanda's blankness of mind' (170). Yet it is Nanda who is most aware of this duplicity, pointing out herself that 'there was never a time when I didn't know *something* or other and ... I became more and more aware as I grew older, of a hundred little chinks of daylight' (302). Preposterous and fictional Nanda's purity may be, but this fiction nonetheless has the power to curtail the freedom of discourse in the Brookenham sphere, to be a 'resented interference with ancient liberties.'⁴⁵ The perpetuation of this fiction calls for censorship measures to keep 'the place tidy ... for the young female mind' (170), which in turn calls into question the objective of censorship. At issue is the temporal sequence of

⁴⁴ James, preface, *The Awkward Age* 8.

⁴⁵ James, preface, *The Awkward Age* 6.

censorship: innocence is not an originary state prior to the fall, since Nanda has always known ‘*something* or other,’ but is that which is performatively produced and renewed with each act of censorship. In this reading, innocence becomes the fictional and retrospective effect of censorship, masquerading as origins, which in turn throws censorship into an unexpected light. Censorship is no longer the adversary of fiction but is itself a fiction-producing mechanism.

These explicit forms of control belie the fact that the initiates into the Brookenham circle are themselves implicated in structures of power. Designations of censor and censored are ostensibly straightforward in this novel. The Duchess, as Aggie’s legal and moral guardian, erects protective structures around her charge—‘[w]e sift and we sort, we pick the candidates over,’ Petherton remarks in jest but not without reason—and in so doing institutes a rigorous programme of censorship of which the filtering of ‘possible’ books is merely one aspect (148, 145). Aggie, as Mrs Brookenham informs us, is ‘the Duchess’s morality, her virtue; which, by having it, that way, outside of you, as one may say, you can make a much better thing of’ (184). At once a displacement and a colonisation, the Duchess’s censorial measures allow her to project her ‘morality’ onto Aggie, appropriating her niece as a manipulable and visible vessel as a public signifier of her own ‘virtue.’ This is less an act of antagonism than one of symbiosis, for theirs is a complementary relationship, ‘the association of the pair being so markedly favourable to each other’ (68). The equivocal nature of these subject positions is made particularly clear in the description of the Duchess as the navigator of a ship. The Duchess’s machinations, rather than her ward, are the focal point of her peers’ attention. For as Mrs Brookenham herself says, they watch, ‘[n]ot of course on the chance of anything’s happening to the dear child—to whom nothing obviously *can* happen but that her aunt will marry her off in the shortest possible time and in the best possible conditions. No, the interest is, much more, in the way the Duchess herself steers’ (122-3). The notion of captaincy suggests an authoritative position—she is, after all, ‘an experienced mariner’—but the Duchess, being ‘in a boat ... that will take a good bit of [steering],’ is nonetheless enmeshed in currents not altogether in her control (123). The distinction between the subject and the object of censorship can no longer be maintained and it is in this sense that James’s novel presages later critiques of

censorship. Michael Holquist, for example, points to the inadequacy of the ‘prosecutor-victim’ model of censorship: “‘Who-whom?’” is a traditional way to pose questions about censorship but is one that elides many difficulties by psychologizing the topic, thus transforming it exclusively into a contest of wills.’⁴⁶ Holquist posits instead a more nuanced model of censorship using the concept of a ‘force field’ rather than a unidirectional deployment of power, a field that ‘encompasses, creates, and limits the censor as well as the censored.’⁴⁷ Yet this is a point made abundantly clear by James some one hundred years earlier. The captain marooned on the seas, the watchful guardian herself under public scrutiny: these examples show that the censor is as much implicated in the ‘force field’ and indeed, as censored, as the object of her attentions.⁴⁸

Concomitantly, censorship also produces that which it purports to curtail, and this can be seen by returning to yet another bibliographical reference, this time, Nanda’s ‘impossible book.’ It has been said that in *The Awkward Age*, ‘[d]iscussion of an experience is more important than the experience, which ... is hardly real until it’s discussed.’⁴⁹ The same might also be said of Nanda’s ‘impossible book,’ playing an integral role in precipitating the narrative’s climax, yet existing for the reader only through the mediation of the characters’ descriptions. We are merely told that it is ‘a French novel in blue paper’ (223), ‘something *very* awful,’ from Lord Petherton via Tishy Grendon (249), ‘too hideous,’ according to Mrs Brookenham (251). That it is ‘revolting,’ we are left in no doubt, yet its ‘awful subject’ is withheld, and the book itself remains, in the end, a cipher (251).⁵⁰ A comparison to another of James’s texts, *The Turn of the Screw*, published a year earlier, is apposite here. In the Preface of

⁴⁶ Holquist 16.

⁴⁷ Holquist 16-7.

⁴⁸ For a discussion of James’s use of the ‘marine metaphor,’ see Greg W. Zacharias, ‘The Marine Metaphor, Henry James and the Moral Center of *The Awkward Age*’ *Philological Quarterly* 69.1 (1991). For Zacharias, the image of the captain at sea, with its coupling of authority and responsibility, encapsulates the idea of moral agency. I would argue that with regard to the Duchess’s captaincy, it is less the moral duty of her stewardship than the precariousness of her position of power that is of interest.

⁴⁹ Margaret Walters, ‘Keeping the Place Tidy for the Young Female Mind: *The Awkward Age*,’ *The Air of Reality: New Essays on Henry James*, ed. John Goode (London: Methuen, 1972) 203.

⁵⁰ See Peter Brooks for a discussion of James’s ambivalence towards the works of French authors such as George Sand, Paul Bourget, and Emile Zola (‘Henry James and Dirty French Novels,’ *Henry James Review* 28 (2007)).

this novella, James asserts that evil explicated is less striking than evil imagined, a strategy that might equally apply to *The Awkward Age*:

Only make the reader's general vision of evil intense enough ... and his own experience, his own imagination, his own sympathy ... and horror ... will supply him quite sufficiently with all the particulars. Make him think the evil, make him think it for himself, and you are released from weak specifications.⁵¹

In thus compelling the reader into collusive involvement in imagining evil, the risk of indecorous representations is bypassed even while evil becomes an individuated, because personally conceived, entity. So too, is the author exempt from 'weak specifications' of the obscene in *The Awkward Age*. The physical presence of the French novel, its materiality heightened by its prominence in the game of hide and seek played by Aggie and Petheron, coupled with its substantive blankness, serves perversely to intensify its transgressive quality. This is characteristic of the novel's strategy in general: it gestures towards aberrant sexuality—the novel is, as one critic has it, a 'veritable roll call of late-century deviance'⁵²—but significantly, these possibilities are only ever intimated and never fully eventuated, and the reader is left, not with transgressive behaviour, but with talk of it. As Tzvetan Todorov observes, talk in the salon is governed by the following rules: 'one may say anything, and one must never say anything directly.'⁵³ Verbal indirection, it would appear, does not denote moral pusillanimity, but is the means to discursive licence. Linguistic refinement is therefore not decorous suppression but decorous expression.

The novel is the catalyst for both narrative crisis and Nanda's downfall, yet by emptying the book—literally—of substantive significance, James in effect detaches this agency from any empirical basis. By describing, not the book's obscenity, but merely talk of it, the concept of the obscene loses any objective mooring, becoming merely a function of discursive speculation. I suggested above that censorship produces the concept of innocence and the same might be said of the category of the obscene. Censorship, whether it is the Duchess's regulation of

⁵¹ Henry James, preface, *The Aspern Papers and The Turn of the Screw* (Harmondsworth: Penguin, 1984) 42.

⁵² Kurnick 115.

⁵³ Tzvetan Todorov, 'The Verbal Age,' trans. Patricia Martin Gibby, *Critical Inquiry* 4 (1977-78): 363.

Aggie's reading or Mrs Brookenham pronouncing the volume 'so revolting' (251), becomes, not the prohibition of the obscene, but the creation and definition of it, and the causality between reading and corruption that underpins calls for censorship is overturned.

This reversal becomes most apparent if we compare *The Awkward Age* with other novels dealing with the trope of the female reader, as, for instance, Gustave Flaubert's *Madame Bovary* and its English derivative, George Moore's *A Mummer's Wife*.⁵⁴ These two novels are frequently presented as intractable texts for the nineteenth-century censor, Flaubert being acquitted of the charge of obscenity and *A Mummer's Wife* published in a single volume in defiance of the 'odious tyranny' of Mudie's circulating library.⁵⁵ Both flout literary propriety in their depiction of adultery without moral censure, yet both leave intact the assumption that fiction—in its sentimental contents and in a solipsistic reading process that estranges the reader from lived experience—can be a dangerous practice. In these earlier novels, the causal link between romantic fiction and catastrophic delusion is taken for granted. Emma Bovary indulges in the fictional romances of Walter Scott, in the works of Balzac and George Sand, 'seeking to gratify in fantasy her secret cravings,' which in turn lays bare her own dissatisfaction for her life with Charles.⁵⁶ Kate Ede similarly becomes 'fevered and enraptured' by tales of love lost, her seduction by words preparatory to her seduction by Dick Lennox.⁵⁷ Fiction—in books and on stage—elicits from Kate a somatic response: she is overcome by a 'whirling sense of intoxication,' 'shaken with quick shudderings'; the effect is 'like wine,' 'like champagne,' an ominous foreshadowing of her decline into alcoholism but also resuscitating the trope of reading as addiction familiar from mid-century critics of sensational fiction.⁵⁸ In both *Madame Bovary* and *A Mummer's Wife* then, fiction and

⁵⁴ For discussions of the Victorian female reader, see Kate Flint, *The Woman Reader: 1837-1914* (Oxford: Clarendon, 1993); Barbara Leckie, *Culture and Adultery: The Novel, the Newspaper, and the Law, 1857-1914* (Philadelphia: U of Pennsylvania P, 1999); Jennifer Hayward, *Consuming Pleasures: Active Audiences and Serial Fictions from Dickens to Soap Opera* (Lexington, Kentucky: UP of Kentucky, 1997).

⁵⁵ Moore, 'Literature at Nurse' 17.

⁵⁶ Gustave Flaubert, *Madame Bovary*, trans. Geoffrey Wall (1857; Harmondsworth: Penguin, 1992) 45. While Flaubert affirms what might be called a conservative trope of the susceptible female reader, stylistically, he is more transgressive, as I will discuss briefly in Chapter Three.

⁵⁷ George Moore, *A Mummer's Wife* (London, 1885) 50.

⁵⁸ Moore, *Mummer's Wife* 141, 142, 138, 141. The *Quarterly Review*, for instance, writes that sensation novels belong 'to the morbid phenomena of literature—indications of a wide-spread corruption, of

life collapse into one another, resulting melodramatically in adultery and death. By contrast, because Nanda's novel remains contentless, and because our consciousness of its dangers is garnered purely through talk of the novel, these dangers appear not to be inherent to the offending text, but ones that are socially ascribed. It is not that Nanda has read the book that leads to the narrative's denouement, but the public revelation that she has done so.

It is in this sense that James provides a more incisive critique of the trope of innocence and the dangers of reading, for what he does is interrogate the assumptions behind the rationale of censorship. Contemporary arguments for the autonomy of literature concede the need for a censored library for the young, such commentators being, in most cases, ready exponents of Eliza Lynn Linton's 'locked bookcase.'⁵⁹ Linton draws on the authority and responsibility of the paterfamilias to combat the 'unwritten law' of censorship, an indiscriminate muzzling of the writer's art which results in a 'feeble, futile, milk-and-water literature.'⁶⁰ '[M]ay not men and women, who know of life, have their acre to themselves where the *ingénue* has no business to intrude?' she asks rhetorically. Instead, the 'locked bookcase' in which the father might keep his 'masculine literature' allows a robust fiction to propagate while keeping from the Young Person 'food too strong for them to digest.'⁶¹ It is true that in 'The Art of Fiction,' James gestures perfunctorily towards the sensibility of the Young Person, conceding that '[t]here are certain things which it is generally agreed not to discuss, not even to mention, before young people.'⁶² Yet the reference is cursory, and this brief concession to the necessity of proscription is importantly presented as a social construct: 'it is generally agreed' that the young must be shielded; the condition of innocence is not endemic to youth, but arbitrarily determined, given validity only through social consensus. Moreover, on closer inspection, the segregated literature advocated by Linton, Moore, and other campaigners to forestall censorial intentions is oddly in line with the Duchess's rigid

which they are in part both the effect and the cause; called into existence to supply the cravings of a diseased appetite, and contributing themselves to foster the disease, and to stimulate the want which they supply' ('Sensation Novels,' *Quarterly Review* 113.226 (1863): 482-3).

⁵⁹ Eliza Lynn Linton, 'Candour in English Fiction,' *New Review* 8 (1890): 13-14.

⁶⁰ Linton 11, 14.

⁶¹ Linton 11. Moore likewise avers that young girls 'should be provided with a literature suited to their age and taste' ('Literature at Nurse' 21).

⁶² James, 'Art of Fiction' 205.

system of censorship, founded on the belief that the presence of unmarried women is 'the ruin also of conversation and literature' (150). This system, one might recall, is pronounced 'very charming and old-fashioned and, if you like, aristocratic, in a frowsy, foolish old way' (47). Read thus, *The Awkward Age* becomes less an adjunct to extant critiques of censorship but an implicit critique of those positions.

This elision of textual centres functions similarly in *The Turn of the Screw* as an evasive strategy that gestures towards, yet falls short of articulating, greater evils. In this sense, both texts showcase a similar defiance of censorial forces, not pugnaciously in a George Moore style attack, but more subtly, by unravelling the logic of silencing which underlies calls for a moral censorship. As Nanda astutely points out, 'what's so awfully unutterable is just what we most notice,' and in these texts, silence does not suppress but amplifies (226). This point is made persuasively by Roslyn Jolly, who argues that *The Turn of the Screw* 'mocks the idea that the reader really needs protection from fiction, or that censorship really offers such protection.'⁶³ Nor was this irony unmarked by James's contemporaries. Reviewing *The Awkward Age*, the *Academy* comments on the dexterity with which James 'make[s] repression a factor of art instead of an impediment.'⁶⁴ The *Spectator* notes that James 'never calls a spade a spade, or a "d—d shovel"; he does not visit "mean streets," or minutely describe the symptoms of epilepsy, or deal in physical or physiological horrors.' Yet his 'external suavity' cannot conceal the underlying depravity, a 'mental and moral squalor' far exceeding the excesses of naturalism. The novel, 'with its scrupulous avoidance of candour, its wealth of sinister suggestiveness, is a marvel of enigmatic insinuation.'⁶⁵ Some two decades later, Bram Stoker was to write in praise of reticence as a form of beneficial self-censorship and self-preservation:

The measure of the ethics of the artist is expressed in the reticence shown in his work; and where such self-restraint exists there is no need for external compelling force. In fact, self-restraint is the bulwark of freedom, inasmuch as it makes other forms of restraint unnecessary.⁶⁶

⁶³ Jolly 111.

⁶⁴ Unsigned review in *Academy* May 1899: 56, repr. in *Henry James: The Critical Heritage*, ed. Roger Gard (London: Routledge and Kegan Paul; New York: Barnes and Noble, 1968) 286, 288.

⁶⁵ Unsigned review in *Spectator* May 1899, 82, repr. in Gard 282.

⁶⁶ Bram Stoker, 'The Censorship of Fiction,' *Nineteenth Century and After* 64 (1908): 480.

Authorial reticence for Stoker is a demonstration of personal integrity; however, for James, reticence itself can signify in alternative and subversive ways. Self-restraint obviates external coercion not through pre-emptive suppression as conceived by Stoker, but by shifting the onus of interpretation onto the reader such that offensive meanings do not inhere in the text itself, but emerge at each perusal. The affiliation between reticence and moral probity is dislodged and silence is no longer the result of censorship but a means around it.

Viewed thus, reticence becomes less a timorous capitulation to propriety than its devious circumvention. It is necessary, then, to revisit the judgements of critics who allege such circuitousness as self-censorship on the part of James. George Moore, for example, accuses James of yielding to 'the prudery of the age,' compromising his work with 'concessions [which] are to a certain extent self-imposed.'⁶⁷ Tempering praise with frustration at James's prolixity, Moore writes of *The Portrait of a Lady*, 'his whole book is one long flutter near to the one magical and unique word, but the word is not spoken, and for want of the word his characters are never resolved out of the haze of nebulae.'⁶⁸ Edmund Wilson speaks out more strongly against the 'swathing process' by which James 'pad[s] out' his prose, the 'unnecessary circumlocutions and the gratuitous meaningless verbiage' that pervade say, *The Tragic Muse* and *The Wings of the Dove*.⁶⁹ But read otherwise, circuitousness can be seen, not as linguistic dilettantism, but as deliberate evasive ploy. Moore's 'one magical and unique word ... not spoken,' a kind of *mot juste manqué*, instead of being a narrative flaw, might be considered synecdochic of James's larger narrative method. His narratives are frequently structured around textual lacunae in the manner of Nanda's 'impossible' novel: the headmaster's missives in *The Turn of the Screw*, Milly's letter burnt unopened in *The Wings of the Dove*, Mark Ambient's manuscript in 'The Author of Beltraffio.' The pivotal role of these diagetic texts is undeniable but crucially, their contents are never revealed. It is precisely through such omissions that the 'impossible' is made possible, that the

⁶⁷ Moore, *Confessions* 159.

⁶⁸ Moore, *Confessions* 156.

⁶⁹ Edmund Wilson, 'The Ambiguity of Henry James' *Henry James: Critical Assessments*, ed. Graham Clarke, Vol. 3, *A Twentieth-century Overview* (Mountfield, East Sussex: Helm, 1991) (originally published in *Hound and Horn* (1934)) 182.

unspeakable is articulated. These are less instances of 'gratuitous' self-censorship than of astute expression.

Yet despite this common exploitation of absent centres, there are significant differences between the two texts, the one of most concern here being on the attribution of the source of obscenity. In *The Awkward Age*, the substance of the corrupting French novel may be absent, but causality, while divorced from the book and reading, is shown to be socially determined. It is in this sense that I depart from Peter Brooks's otherwise perceptive reading of the text. Brooks discusses Nanda's French novel in terms of James's 'scenic' construction. Such 'evacuated centers of meaning,' he argues, are part of a melodramatic presentation that shifts attention from content to effect, from depth to surface, with the result that knowledge is seen to derive from 'effect rather than cause and substance.'⁷⁰ While this emphasis on effect, as discussed above, produces a more nebulous, because indeterminate, evil, I hesitate to conflate 'cause' and 'substance' to the extent of Brooks's reading. Substanceless effects may proliferate in this novel—the contentless 'impossible book' certainly, but also the many intimations of transgressive behaviour—but I would argue that these effects are not causeless, albeit diffused into a less tangible discursive presence. Though dependent on the fickle consensus of the Brookenham clique, there is never any doubt that knowledge and its consequences, however contingent, are, in the end, determined by this discursive circle. By contrast, Brooks's argument does hold for *The Turn of the Screw*, a text which explores the affective possibilities of a situation devoid of epistemological certainties. In this latter text, the absence of substance *is* contiguous with the absence of cause. The governess's histrionic insistence that 'there are depths, depths!' is never substantiated, leaving the reader, and indeed, the governess herself, with no more than mere effect, with 'unspeakable impressions' (183, 211).

At issue is how each text conceives of knowledge. *The Turn of the Screw*, the greater part of which is presented as the governess's first person testimony, puts forward the possibility that knowledge is a dangerously solipsistic entity. *The Awkward Age*, constructed along theatrical lines with its emphasis on dialogue and

⁷⁰ Peter Brooks, *The Melodramatic Imagination: Balzac, Henry James, Melodrama, and the Mode of Excess* (New Haven: Yale UP, 1976) 166, 173.

the intersubjective, argues for a socially produced knowledge. Perhaps one of the most striking features of *The Awkward Age* is the appearance of the word 'know' in its various forms. At the level of dialogue, there is a noticeable recurrence of an idiomatic 'you know,' a verbal idiosyncrasy that permeates the language of all characters, from Longdon to Aggie, Mrs Brookenham to Vanderbank. At other times, knowledge becomes almost a concrete entity, as, for instance, in Vanderbank's response to Longdon: "I know the thing you just mentioned—the thing that strikes you as odd." *He produced his knowledge quite with elation*' (23, my emphasis). More interesting is the shift from the concept of knowledge as a noun to its verbal form, 'to know.' Not only is the content of knowledge of lesser concern in these instances, the process of knowing itself has consequences beyond the epistemological: it becomes a means of intersubjective exchange, the channels through which interpersonal relations might be negotiated. As such, significance inheres less in the substantive than in the relational. The following scene in which the Brookenhams speculate on the Duchess's relationship with Petherton typifies this usage:

'What is it that's between them?' [Brookenham] demanded.

'What's between any woman and the man she's making up to?'

'Why, there may often be nothing, I didn't know she even particularly knew him,' Brookenham added.

'It's exactly what she would like to prevent any one's knowing, and her coming here to be with him when she knows I know she knows—don't you see?—that he's to be here, is just one of those calculations that are subtle enough to put off the scent a woman who has but half a nose.' (53-4)

We move from the conjectural nature of Brookenham's musings to Mrs Brookenham's astute interpretation of interpersonal relations, the intricacies of which are articulated through and reflected in the syntactically complex 'she knows I know *she* knows.' We move, that is, from knowledge in the concrete to 'knowing' as a form of interaction. A similar usage occurs later in the novel, where Mitchy, discussing Nanda with Longdon, informs him that 'I know you know what I've known' (276). In this instance, the circle of mutual 'knowing' becomes an affirmation of a social bond, an acknowledging of each person's standing vis-à-vis the other. There is a similar shift in emphasis in Mitchy's desire, voiced to Nanda, of 'the establishment of something between us. I mean your arranging somehow that we

shall be drawn more together—know together something nobody else knows’ (206-7). It is the complicitous sharing of knowledge to which Mitchy appeals, the significance lying less in the ‘something’ shared than in the fact that ‘nobody else knows.’ Other instances also highlight the intersubjective significance of the act of knowing: the Duchess, in a confidential gesture, refers to herself and Longdon as ‘you and me who know life,’ while Harold suggests that his mother, Tishy, and the Duchess are ‘of the school that knew’ (234).

These complexities have consequences for our understanding of censorship. The Duchess’s censorial measures are predicated on knowledge in the first sense, as a concrete entity to be excised from a questionable historical text, as corrupting talk to be filtered from the young girl’s ears. In this usage, the focus is on the content of the offending work and words, and the means of its segregation and expurgation. But with the shift in emphasis to knowledge as process, the focus of censorship moves away from its putative target to its negotiatory capacity and its efficacy in creating and cementing interpersonal bonds. What becomes apparent again is the symbiotic relationship between the exclusionary and the inclusionary thrusts of censorship. More importantly perhaps, this movement towards a broader understanding of censorship as a productive rather than repressive force that enables communication and social interaction does not sidestep the issue of culpability, an issue at the crux of much recent theorisation of censorship. Singling out the Holquist essay discussed in Chapter One, Simon Wortham takes issue with the strand of criticism that theorises the omnipresence of censorship. Such critiques of traditional models of censorship, informed by a post-structuralist scepticism of the autonomous subject, emphasise the ways in which language exceeds the control of the individual (the censor) and these critiques seem, according to Wortham, ‘rather to skirt around the issue of responsibility,’ which is itself an abdication of responsibility on the critic’s part.⁷¹ I would argue that *The Awkward Age* does not shirk this task. David Kurnick speaks of a ‘group subjectivity,’ the ‘corporate consciousness’ of the Brookenham circle that takes precedence over the individual.⁷² So too, might we say that knowledge in *The Awkward Age* is a ‘corporate’ entity: on the one hand, knowledge is given currency

⁷¹ Simon Wortham, ‘Multiple Submissions and Little Scrolls of Parchment: Censorship Knowledge, and the Academy,’ *New Literary History* 28.3 (1997): 502.

⁷² Kurnick 117.

through consensus; on the other, the networks of knowing are the channels for fostering communality. The complicity of mutuality, articulated through a reciprocal knowing, implies that responsibility for this knowledge and the determining of who has access to it also becomes a 'corporate' or shared burden. In her discussion of censorship and the performative, Butler warns against imputing a sovereign power to the figure of the censor in the singular, as this attribution both falsely absolves social and historical institutions from blame and overlooks the more tacit and constitutive operations of censorship.⁷³ Here, the idea of a 'corporate' responsibility avoids both these errors by implicating the Brookenham circle in its entirety and by suggesting that exclusionary processes are constitutively intrinsic to these knowledge networks.

Knowledge is as important in *The Turn of the Screw*, but where *The Awkward Age* examines the consequences of Nanda's claim to 'know everything,' *The Turn of the Screw* questions the possibility of knowing *anything*. In its simplest form, the governess's post as educator involves the imparting of suitable or permissible knowledge. This primary educative function suggests a complementary and inseparable role as censoring buffer, as, in the governess's own words, 'a screen' whose duty is 'to protect and defend,' to 'fence about and absolutely save' her charges (179, 176). Successful fulfillment of her duties involves the rigorous filtering of illicit knowledge and conversely, the failure of censorship is figured as a fall into knowledge. The governess becomes certain of the children's corruption after the encounter with Miss Jessel by the lake, and voices confirmation of her failure to Mrs Grose in lapsarian terms: '[t]hey *know*—it's too monstrous: they know, they know!' (182). There is an urgency and assurance in such assertions that belie the way in which knowledge is shown to be radically unstable in the novella, an instability heightened by a vertiginous oscillation in the governess's narrative between confident pronouncements—the moments of 'clear assurance' and 'full coherency,' her 'fierce rigour of confidence' (170, 183, 196)—and instances when knowledge is revealed to be entirely subjective—when meaning is 'extracted' or 'read into' (253, 178). Where knowledge in *The Awkward Age* is socially produced, here, it is suggested to be solipsistic fabrication. Describing her first encounter with Quint, the governess writes, '[s]o I saw him as I see the letters I form on this page' (165). She

⁷³ See Chapter One.

proffers this analogy as assurance of Quint's presence, the materiality of the letters on the page intended to affirm the empiricist value of her observations, yet in so doing, positions herself as possible author of both text and ghostly form. We are offered no objective proof of Quint's appearance and the ambiguity of the governess's words suggests a more subjective provenance.⁷⁴

Such a radical undermining of epistemological grounds necessitates a reconsideration of the governess's acts of censorship. From the Biblical lapsarian narrative onwards, the connection between knowledge and corruption has resonated throughout western tradition, a connection that also underwrites the tutelary rationale behind literary censorship of the nineteenth century. Yet here, no longer an objective entity to categorise and regulate, knowledge, it is intimated, emerges from the individual herself. To speak of censorship as the regulation of knowledge presupposes a distinct and recognisable substance to be thus manipulated, precisely what the novella withholds from its readers. At issue, therefore, is not the mastery and control of an illicit knowledge, nor even the assessing of its legitimacy or permissibility, but the status of knowledge itself. The more assiduous the censor's attempts to suppress forms of evil knowledge, the more pervasive evil becomes, to the point of its omnipresence. For Mrs Grose, Flora's fallenness is confirmed by the 'horrors' issuing from her mouth, the 'appalling language' directed at the governess (246). For the governess, it is the *absence* of such tangible signifiers which signifies evil: 'Not a word—that's the horror,' she exclaims (182). There comes a corresponding uniformity of signification with the expanding realm of evil: all signifiers, one might say, lead to evil. As the governess herself realises, '[t]he more I go over it the more I see in it, and the more I see in it the more I fear. I don't know what I *don't* see, what I *don't* fear' (183).

There is perhaps something of a Foucauldian cast to my reading here. Power, Foucault argues, operates with the primary goal of extending its stronghold and it is productive in the sense that it creates the subjects of its domain. A similar argument might be made for the governess's acts of censorship: her goal is not the eradication

⁷⁴ See Kiyoon Jang for a reading of the governess as a ghostwriter, a medium for the spectral figures of the master, Quint, and Miss Jessel, who herself is in turn given a similar concretisation by Douglas and the narrator ('Governess as Ghostwriter: Unauthorized Authority and Uncanny Authorship in Henry James's "The Turn of the Screw"', *Henry James Review* 28 (2007)).

of evil, but the expansion of her jurisdiction and the colonisation of her charges. By this logic, her actions are less repressive than productive of evil, an evil that mandates an ever increasing vigilance. But James does not offer a forthright evaluation of the governess's acts, nor is the reader given a stable basis from which to make such a critique, for these possibilities are hinted at without confirmation. If Quint is indeed a malicious or delusional fabrication on the governess's part, then it is only through the reader's own agency that this conclusion is arrived at. Faced with suppositions and conjectures, the reader, like the governess, must 'extract' meaning and 'read into' the text (253, 178). It is in this sense that the novella is a hermeneutic trap, in James's words, 'an *amulette* to catch those not easily caught,' targeting less the vulgar or obtuse reader than the sophisticated one.⁷⁵ As Shoshana Felman argues in a psychoanalytic interpretation, reading rationally, that is, reading sceptically, means distrusting the governess's narrative, yet the process of reading sceptically replicates the governess's own overdetermined reading practice.⁷⁶ The relationship of suspicion between the governess and her charges is mapped onto that between the reader and the governess, and the denunciation of the governess is thus also a self-denunciation. The distinction between a rational and a neurotic hermeneutic collapses and like the narrator in 'The Figure in the Carpet,' the reader becomes a paranoid one, seeking always the 'esoteric message,' the 'figure in the carpet.'⁷⁷ The distance between James's earlier justification for artistic licence on the basis of open discourse and his radical questioning of discursive rationality in this novella becomes most palpable.

Nevertheless, despite its undermining of stable epistemological grounds for judgement, the novella still interrogates the ethics of reading. This is an ethics that is not grounded in communicative reason though, nor in an ideal speech situation, but one that emerges from the dissolution of these norms, from the failure of communication. The reader is called upon to make a judgement, no less explicitly than in 'The Author of Beltraffio,' where the narrator confronts the reader with her potential complicity. 'And, *à propos* of consciences,' he states towards the end of

⁷⁵ James, preface, *Turn of the Screw* 38-9.

⁷⁶ Shoshana Felman, 'Turning the Screw of Interpretation,' *Literature and Psychoanalysis. The Question of Reading: Otherwise*, spec. issue of *Yale French Studies* 55/56 (1977): 190-201.

⁷⁷ Henry James, 'The Figure in the Carpet,' *The Complete Tales of Henry James* ed. Leon Edel, vol. 9 (London: Rupert Hart-Davis, 1964) 283.

that narrative, 'the reader is now in a position to judge of my compunction for my effort to convert Mrs Ambient.'⁷⁸ In the framing narrative of *The Turn of the Screw*, Douglas exhorts the narrator to a similar judgement, assuring him, '[y]ou'll easily judge ... you will.'⁷⁹ In this latter case, however, these words act almost as a taunt to the reader: judgement cannot be 'easily' made yet must be made. Unlike Mrs Grose, the reader has no 'appalling language' to vindicate her suspicions, no satisfaction, either, of the governess's 'It so justifies me' (246). In both 'Beltraffio' and *The Turn of the Screw*, the stakes are equally high, for what the reader is implicated in is the corruption and death of a child, the protection of whom is the traditional justification of the censor's activities. The aim of censorship is to prevent the corruption of innocence, yet the governess's role vis-à-vis this protective task cannot be determined conclusively, for she can conceivably be agent either of corruption or of protection. The reader, inadvertently yet unavoidably aligned with the governess, occupies an equally tenuous position. There may be no superior hermeneutic ground from which to carry out self-righteous censorial duties, nor yet to gauge these activities, yet amidst this epistemological uncertainty, the reader is still forced to make a judgement. This appeal, 'à propos of consciences,' to borrow from the narrator of 'Beltraffio,' is surely more challenging than any facile demand to align oneself for or against censorship.

That the reader is stranded in this hermeneutic morass should direct us to further examination of the interaction between text and reader. As discussed above, in *The Awkward Age*, the 'intellectual elbow-room' of the Brookenham salon and its 'freedom of talk' are bolstered, not by the principle of accessibility, but by the effectiveness of its exclusionary measures (154). As a text that to some extent resists reciprocation—and this is amply demonstrated by early reviewers who by and large condemned its obliquity—the novel replicates this discursive isolation in the reading process. One contemporary critic points to the rarefied conversation of Mrs Brookenham's coterie which, while showcasing James's stylistic niceties, ultimately obfuscates: 'These people undoubtedly perfectly understood each other as a rule, and

⁷⁸ Henry James, 'The Author of Beltraffio,' *The Complete Tales of Henry James* ed. Leon Edel, vol. 5 (London: Rupert Hart-Davis, 1963) 355.

⁷⁹ James, *Turn of the Screw* 147.

Mr. Henry James understands them always; but the reader only by flashes.’⁸⁰ For another, James’s stylistic idiosyncrasies infuse his characters’ dialogue to the detriment of a convincing portrayal, such that his style ‘has become a barrier between the reader and all the author’s characters.’⁸¹ Yet another reviewer comments on the difficulties in reading the text: the characters ‘talk a great deal in a language of their own that has grown out of their constant intercourse with each other. An outsider must listen hard and guess a great deal.’⁸² Uniting these assessments is the assumption that reading should be a collusive and reciprocal process, a collaborative relationship between author and reader centred on a compliant text. What we see then, is a tacit invocation of the sympathy that, as shown above, underwrote Besant’s defence of fiction even while eschewed by James. But in a text which withholds explication—‘[y]ou overhear and interpret as you can, but nothing is said for your benefit,’ claims the *Athenaeum*—the reader is less participant than eavesdropper.⁸³ Like Longdon, the reader is a novice in Mrs Brookenham’s salon, and it would appear that entry into this communicative network requires a certain competency. After all, even Vanderbank, now a veteran of the discursive sanctum, once ‘had had to learn to feel his way and had more or less mastered the trick’ (174). To participate, to converse intelligibly, is to ‘[play] the game,’ to abide by the ‘little tacit rule[s]’ (237). ‘Reaching understanding is the inherent telos of human speech,’ Habermas claims.⁸⁴ But in the seemingly endless and sometimes directionless proliferation of dialogue in *The Awkward Age*, the focus is less on understanding in Habermas’s sense of a ‘communicatively achieved agreement’ than on uncovering the exclusions on which this communality and agreement are dialectically founded.

Jansen outlines a model of resistance to and regulation of censorship by appealing to the Habermasian ideal speech situation. The normative ideals implicit in every communicative act provide the procedural basis for holding the censor in its various manifestations accountable and open to public scrutiny. Rational discourse is set up against silence, ‘the socially structured silences which make arbitrary forms of

⁸⁰ ‘Mr. Henry James Exasperates,’ *Pall Mall Gazette* 8 May 1899, repr. in *Henry James: The Contemporary Reviews*, ed. Kevin J. Hayes (Cambridge: Cambridge UP, 1996) 318, 319.

⁸¹ ‘Mr. James’ *Awkward Age*,’ *Chicago Evening Post* 27 May 1899, repr. in Hayes 326.

⁸² ‘Mr. James’ New Novel,’ *Bookman* 16 (1899), repr. in Hayes 330.

⁸³ Unsigned review in *Athenaeum* 3735 (27 May 1899), repr. in Hayes 326.

⁸⁴ Habermas, *Communicative Action* 1 287.

censorship possible.⁸⁵ By contrast, James imbues silence with a rich and devious signifying power; silence thus need not be rescued by discourse, as in Jansen's scenario, since it is itself a part of discourse. The safeguards for fair and rational debate—the suspending of social difference, the inclusion of all rational subjects—aim to facilitate communicative understanding; James, both in the communicative circles depicted diagetically and in the extradiagetic exchanges between reader, text, and author, appears to reject the principle of ease of access. The difficulty of James's prose, as evidenced by the reviews cited above, suggests that he is less interested in removing the barriers to communication than in exploring and exploiting them.⁸⁶ Once again, we return to James's audience. Mill claimed that the most 'hostile and dreaded censorship' was that enforced by a conformist nineteenth-century public.⁸⁷ In the literary field, writers such as Moore, Gissing, and James registered a similar anxiety over a debased reading public and its consumerist power in an industry driven by economic imperatives. Market censorship is countered by a form of aesthetic censorship, where superiority of taste is vaunted over the clout of numbers. Yet the way in which texts like *The Awkward Age* and *The Turn of the Screw* enact the obfuscation and alienation of the reader suggests a different ploy. What has been called James's 'problem of audience'⁸⁸—a problem equally for Moore and Gissing—has been transformed in this sleight into a problem *for* the audience. The burden of the public on the author is here reversed and it is the public on whom demands are made. In this reversal, the reader is forced into an active engagement with the text—

⁸⁵ Jansen, *Knot* 9.

⁸⁶ An interesting direction of inquiry would be to look at James's late fiction. As I mention above, *The Awkward Age* is exceptional in its proliferation of dialogue. In his late novels, there is much less direct discourse, with James exploring nonverbal forms of communication between his characters. Karen Leibowitz examines these forms of communication, such as through mutual glances or tacit acknowledgements, in *The Spoils of Poyton* and *The Golden Bowl*, arguing that James used reticence as a discursive strategy to foster a bond between author and reader ('Legible Reticence: Unspoken Dialogues in Henry James,' *Henry James Review* 19 (2008)). Leibowitz offers a nuanced reading of the texts, but does not deal with a concurrent trend in James's work: even as his characters achieve understanding while dispensing with the spoken word, James's own prose becomes increasingly dense—Christopher Lane refers to the 'legendary' 'opacity of [his] later prose' ('Jamesian Inscrutability,' *Henry James Review* 20.3 (1999): 244). This seems to me an interesting dynamic but unfortunately, I do not have the space to explore these ideas here.

⁸⁷ Mill, *On Liberty* CW 18: 264.

⁸⁸ Anne T. Margolis, *Henry James and the Problem of Audience: An International Act* (Ann Arbor, Michigan: UMI Research P, 1985).

‘[m]ake him think the evil, make him think it for himself,’ as James puts it⁸⁹—and via this aptly circuitous route, James appears to have forged the participatory public valorised by Mill, Jansen, Habermas, and others. The censorious public in *On Liberty* is here reconfigured as a particular reading public, not through idealised communicative procedures but through difficulty and circumlocution.

Having in Part One examined censorship in its less overt forms, in Part Two, I turn to more conventionally recognised mechanisms of censorship: obscenity law and censorship trials. Part Two deals with the public as a generic group of susceptible readers, a demographic amalgam of Aggies and Nandas, but also with the idea of publicity. Carried out on a public stage, trials become in some senses a performance of censorship with a function beyond that of excision and suppression.

⁸⁹ Henry James, preface, *The Aspern Papers and The Turn of the Screw* (Harmondsworth: Penguin) 42.

Part II

The Trials and Discourses of Censorship

Chapter 3

The Degenerate Obscene and the Obscene

Degenerate: Zola, the Law, and Medical Science

There is a very popular cant-phrase, that you cannot make men good or sober by Act of Parliament. It is false to say so. It is a libel on the power of the law. You can, and do, keep men sober simply by Act of Parliament; you can, and do, chain the devil of impurity in a large number of men and women by the fear of the law.¹

William Coote's emphatic words bespeak a supreme confidence in legislative clout, as befitting the Secretary of the National Vigilance Association, an organisation that advocated legal reform in the extirpation of vice. Within its moralistic purview was the issue of 'pernicious literature,' and the National Vigilance Association vigorously endorsed the use of powers sanctioned by the 1857 Obscene Publications Act to combat this problem.² Yet it is with lesser assurance that one can gauge the extent to which this confidence was justified. The 1857 Act granted the police powers to search for, seize, and destroy material deemed to be of an obscene nature while the 1868 Hicklin judgement provided the terms by which 'obscenity' might be defined. Obscenity law, as one twentieth-century commentator opines, enabled Victorian prosecutors 'to destroy many examples of fine literature and scientific

¹ William Coote, 'Law and Morality,' *Public Morals*, ed. James Marchant (London: Morgan and Scott, [1902]) 69-70.

² The National Vigilance Association was involved in a range of other activities, including national crusades, the white slavery campaign, rescue work, and the regulation of popular entertainment. See Alan Hunt, *Governing Morals: A Social History of Moral Regulation* (Cambridge: Cambridge UP, 1999). The assiduousness with which it pursued these activities has led one critic to call it 'an organization of unofficial censors ... act[ing] as England's moral watchdog' (Samuel Hynes, *The Edwardian Turn of Mind* (Princeton, New Jersey: Princeton UP, 1968) 257).

speculation.’³ Such unequivocally condemnatory views of obscenity law have been challenged in more recent years. Moreover, in the wake of Foucault, there has been a tendency to overlook the role of legislative mechanisms in social regulation: the juridical functioning of the law, Foucault argues, has been superseded by the technologies of biopower and implicit in this movement is a shift from the legal to the medical field as the primary domain for the governance of life. In an attempt to unsettle binaries of censorship and critique, silencing and speech, Foucauldian-influenced critics such as Richard Burt and Judith Butler posit a model which situates explicit and implicit forms of censorship along a continuum, in which, in Butler’s words, ‘the middle region consists of forms of censorship that are not rigorously distinguishable.’⁴ According to this new scholarship, rational criticism and arbitrary repression exist not as antithetic entities but along a continuum of censorships, to which the medicalising impulse Foucault finds in modern society also belongs. This formulation effectively describes the difficult task of segregating categories of activity as censorship, but the shift to a more fluid concept of censorship which entails a heavier theoretical emphasis, has sometimes been at the expense of considering material practices; nor do these concepts deal adequately with the potential collision of the different forms of censorship in Butler’s ‘middle region.’ The ascendancy of medical discourse was not a straightforward eclipsing of the legal, and it is at the site of this struggle that new discourses and new forms of censorship arise.

Part Two revisits two obscenity trials that form the buttress of extant studies of Victorian censorship, situating them at this contestatory nexus not as examples of the alleged philistinism and caprice of Victorian obscenity law, but as one amongst several measures to combat transgressive articulations. Chapter Three examines the prosecution of Henry Vizetelly for publishing translations of French novels in conjunction with the pathologising assault on French naturalism by Max Nordau. Chapter Four looks at the prosecution of Havelock Ellis’s *Sexual Inversion* in the context of medical science and disciplinary contestations. Placing the cases in cultural and social contexts, Part Two reevaluates the different ways of

³ Geoffrey Robertson, *Obscenity: an Account of Censorship Laws and Their Enforcement in England and Wales* (London: Weidenfeld and Nicolson, 1979) 30).

⁴ Judith Butler, ‘Ruled Out: Vocabularies of the Censor,’ Post 249-50.

controlling/constituting discourse and how these modes of control/constitution work in tandem with, or compete against, each other.

I set up my discussion of obscenity trials by first looking at how law operates and its implications for understanding censorship. David Saunders provides a critique of obscenity law as an instrument of censorship, and while I have some reservations about parts of his argument, I take from him the useful concept of 'variable obscenity.' The rest of the chapter focuses on Zola and the censorships to which his works were subjected. I first look at Vizetelly's prosecution for publishing translations of French novels. I then argue in the next section that these works were subject to another censorious force, the pathologising discourses of medical science, specifically, Nordau's *Degeneration*. I also compare the two forms of censorship in this section: censorship by law and censorship by delegitimizing discourse. In the following section, I look at counterattacks on Nordau to show that the censor's power can only be provisional. I conclude by looking at the use of 'Zola' as a pictorial signifier of vice in Aubrey Beardsley's illustrations to argue that censorship inadvertently participates in new systems of signification. Vizetelly was prosecuted to withdraw Zola's works from public circulation, but the trials, together with Nordau's condemnation, invested 'Zola' with a dissident notoriety that allowed Beardsley to suggest the taboo in a circuitous and elusive way.

Censorship and Obscenity Law

In Foucault's examination of the 'polymorphous techniques of power' that characterise modern society, a society to which the spectacular displays of 'murderous splendour' associated with feudal sovereignty no longer pertain, censorship, 'a wholly negative, narrow, skeletal conception,' is relegated to the arsenal of repressive state mechanisms.⁵ Foucault's claim is valid if censorship is seen in one of its most visible forms, bookburning.⁶ Just as the torture and execution of Damians the regicide, an account of which is given in the opening chapter of

⁵ Foucault, *History of Sexuality* 11, 144; 'Truth and Power,' Foucault, *Power/Knowledge* 119.

⁶ Foucault does not discuss or name specific acts of censorship, giving merely a generalised definition as 'the interplay of prohibitions,' 'instances of muteness,' and 'imposed silence' (*History of Sexuality* 17). I find the absence of definitional specificity inadequate and this in part leads me to question his comments on censorship.

Discipline and Punish, were intended as a demonstration of sovereign might, so too can bookburning be seen as a public show of strength rather than an effectual means of disposal.⁷ The starting point of my discussion, late nineteenth-century literary prosecutions, is not bookburning per se, but its courtroom incarnation, the metaphorical incendiarism of the obscenity trial: the performance of the spectacle has reconvened at an alternative site.⁸ This shift in location is analogous to that identified by Foucault in the eighteenth century. No longer effective deterrents, executions and other sanctioned displays of public violence gradually fell into disuse, undermined by erratic application and the threat of an unruly and unpredictable audience. By the end of the century, the spectacle of public punishment was rejected for the certainty of less visibly impressive but more evenly implemented measures; the body was no longer subject to spectacular violence but to disciplinary incarceration, the punishment dispensed not at the scaffold but in the court of law.⁹ Foucault traces a further shift in the operation of the law. For Foucault, law has historically been an adjunct to monarchical regimes; thus a juridical notion of power inheres in a model of sovereignty and is therefore inescapably repressive and prohibitive. Since the eighteenth and nineteenth centuries, however, the law has operated not so much under the aegis of 'the sword,' but increasingly as a norm, assimilated into a corpus of regulatory mechanisms heavily invested in the propagation of life.¹⁰

British obscenity law was not exempt from this normalising impulse. Of great significance to obscenity trials and debates since the nineteenth century has been the concept of the 'normal reader,' and invocations of the 'casual reader' by the Solicitor-General in the Vizetelly case, of the 'vast majority of those who read

⁷ As Georges Van Den Abbeele asserts, with the invention of the printing press, the original purpose of bookburning as the literal obliteration of ideas contained within a book's covers was made obsolete, for 'no longer could a single bonfire extinguish *all* versions of a single manuscript' ('The Persecution of Writing: Revisiting Strauss and Censorship,' *Diacritics* 27.2 (1997): 3).

⁸ Bookburning retained powerful associations as a symbolic gesture. Bishop How of Wakefield famously staged his own bonfire with Hardy's *Jude the Obscure*. This symbolic act had more serious repercussions though, with the novel's removal from W. H. Smith's circulating library at the behest of How (Michael Millgate, *Thomas Hardy: a Biography* (Oxford: Oxford UP, 1982) 372-3).

⁹ Foucault writes, '[n]ow the scandal and the light are to be distributed differently; it is the conviction itself that marks the offender with the unequivocally negative sign: the publicity has shifted to the trial, and to the sentence' (*Discipline and Punish: The Birth of the Prison*, trans. Alan Sheridan (1977; Harmondsworth: Penguin, 1991) 9).

¹⁰ Foucault, *History of Sexuality* 144.

[Zola's novels] for their filth alone' by *The Times*, or of the 'man in the street' in the Bedborough affair, were all prototypes of this figure.¹¹ For Foucault, the normal is set up against the abnormal or the pathological; here, in a semantic twist, the 'normal' reader refers not to an idealising fiction, but to its opposite, a no less fictional figure constituted in legal and medical discourse as the object of tutelary surveillance. The normal reader in its various guises was a conveniently broad category to which those deemed morally vulnerable were consigned, to some degree regardless of gender, age, class, or race: its effect was thus homogenising rather than individuating. Yet this 'visible' functioning of the Victorian tutelary state—Adam Parkes sees obscenity trials as 'visible sites for staging debates'¹²—masks a more implicit normalising regulation outside of the courtroom directed at the hegemonic subject, who, according to Lynda Nead, was resolutely male and bourgeois, the '[w]ealthy gentlemen of taste and education.'¹³ Commenting on the artistic nude, Nead asserts that the measure of middle-class resilience was its implacability in the encounter with the undraped figure, the triumph of a disinterested contemplation against the somatic disturbance potentially incited by this confrontation.¹⁴ The superior reading subject must likewise be immune to corrupting influences and in this sense, the normal reader functioned as a standard in opposition to which the individual could measure, compare, and assess himself. As Foucault argues, the sublimation of the sexual leads paradoxically to an 'intensification of the body,' and this awareness of the body as a sexual and dangerous entity requires concomitantly an 'urgent need to keep it under close watch.'¹⁵ There is therefore a dual constitutive

¹¹ Cited in William Coote, *Pernicious Literature. Debate in the House of Commons. Trial and Conviction for Sale of Zola's Novels. With Opinions of the Press* (London, 1889) 17; *Times* 1 Nov. 1888; 'The Question of Indecent Literature,' *Lancet* (19 Nov. 1898): 1344. Other manifestations of the 'normal reader' include the 'average householder' by which social acceptability was gauged in Australian Obscenity Law, Woolsey's *homme sensuel moyen*, according to whom he judged *Ulysses* not obscene, or the 'reasonable reader' of the authoritarian South African censorship regime (Brian Lloyd and George Gilbert, *The Censorship and Public Morality: An Australian Conspectus* (Sydney: Angus and Robertson, 1930) 11; Paul Vanderham, *James Joyce and Censorship* (Washington Square, New York: New York UP, 1998) 124-5; J. M. Coetzee, *Giving Offense: Essays on Censorship* (Chicago: U of Chicago P, 1996) 187).

¹² Adam Parkes, *Modernism and the Theater of Censorship* (New York: Oxford UP, 1996) 5.

¹³ Lynda Nead, 'Bodies of Judgment: Art, Obscenity, and the Connoisseur,' *Law and the Image: The Authority of Art and the Aesthetics of Law*, ed. Coustas Douzinas and Nead (Chicago: U of Chicago P, 1999) 204.

¹⁴ I will return to the issues of the nude, the opposition between a somatic and a cerebral response, and the sensibility of the viewer in Chapter Six.

¹⁵ Foucault, *History of Sexuality* 123, 120.

process at work: the ostensible protection of the vulnerable which in fact entailed the production of the category of the vulnerable; and the affirmation of the hegemonic subject, on the grounds of a superior moral, aesthetic, or intellectual sensibility. From this perspective, the danger of obscene publications (or artworks) was as much a testing ground for bourgeois male subjectivity as a platform for high-handed paternalistic intervention.¹⁶

This normalising function of the law challenges accounts of censorship in which obscenity trials are adduced as evidence of a repressive Victorian regime. Such accounts centring on ‘books in the dock,’ to use C. H. Rolph’s phrase, tend to focus with myopic indignation on the legal in isolation from social, intellectual, political, and economic contexts.¹⁷ These accounts have been soundly criticised by David Saunders in a three-pronged attack. First, he takes issue with the methodological laxity of these claims.¹⁸ These trials were isolated incidences—he identifies the 1877 prosecution of Charles Bradlaugh and Annie Besant for publishing Charles Knowlton’s birth control tract, *The Fruits of Philosophy*, the Vizetelly trials, and the Bedborough case, all charged under the 1857 Obscene Publications Act—erroneously and repetitively cited as evidence of bourgeois philistinism.¹⁹ To construct a theory of censorship on the basis of the exceptional rather than the exemplary presents a skewed narrative of suppression: Saunders maintains that there is in fact little evidence to back the claim that obscenity law was directed against serious literature. Second, he argues that allegations that ‘serious’ literature was targeted by the perverse use of legislative power reveal more about the critic’s assumptions about aesthetic worth than the operation of nineteenth-century censorship. Lastly, and most significantly for Saunders, to conceive of obscenity law

¹⁶ It is perhaps more accurate to say the *rhetoric* of intervention on the part of the state. Despite legislative authorisation, the state was reluctant to intervene, due partly to the lack of administrative infrastructure and partly to its liberal laissez-faire heritage, relying instead on private prosecutions by bodies like the National Vigilance Association (Frank Mort, *Dangerous Sexualities: Medico-Moral Politics in England since 1850*, 2nd ed. (London: Routledge, 2000) 102-4).

¹⁷ C. H. Rolph, *Books in the Dock* (London: Deutsch, 1969).

¹⁸ David Saunders, ‘Victorian Obscenity Law: Negative Censorship or Positive Administration?’ *Writing and Censorship in Britain*, ed. Paul Hyland and Neil Sammells (London: Routledge, 1992).

¹⁹ I discuss the Vizetelly and Bedborough cases in this chapter and in Chapter Four. For an account of the Bradlaugh case, see Sripati Chandrasekhar, ‘A Dirty Filthy Book’: *the Writings of Charles Knowlton and Annie Besant on Reproductive Physiology and Birth Control and an Account of the Bradlaugh-Besant Trial* (Berkeley: U of California P, 1981). For a discussion that focuses on the Darwinian sympathies of Bradlaugh and Besant, see Chapter Four of Dawson.

as a mechanism of censorship is a misreading of its purpose and uses. The 1857 Act was a response to the specific problem of the Holywell Street trade in pornographic materials, obscene pictures and the ‘periodical papers of the most licentious and disgusting description,’ all of which, in the words of Lord Campbell, were a ‘poison more deadly than prussic acid, strichnine [*sic*], or arsenic.’²⁰ Echoing the Foucauldian notion of the administration of life, Saunders contends that obscenity law should be understood as the administration of vice, a ‘sophisticated administration of a social problem—street pornography.’²¹ Its aim was regulatory rather than punitive, its operation more appropriately understood in the context of policing strategies, in relation to, though not necessarily within an overarching coordinated program with, such initiatives as urban infrastructure, public health, and education policies.

Elsewhere, Saunders, with Ian Hunter and Dugald Williamson, contend that the liberal-humanist account of obscenity law, ‘the “censorship” story,’ as they term it, ‘returns to a fundamental and unchanging dichotomy between literary subjectivity and the generalised repressive agency of obscenity law depicted as blanket censorship.’²² For them, censorship invoked as an explicatory model for obscenity law promulgates a fable of heroic struggle between the author and the law, one that presupposes an emancipatory telos with the triumph of creativity. In forging an opposition between a generalised and ahistorical literary subject and a ‘blanket censorship,’ such narratives obscure the contextual specificities of regulation. Thus, for example, the co-option of the adjudication of moral matters by the secular courts from the ecclesiastical in the eighteenth century must be understood as a control strategy for the newly established distribution networks of print.²³ By contrast, it was the medicalising discourses of stratified moral susceptibility—the idea of ‘variable obscenity,’ in Saunders’s words—which formed the context of Victorian regulation.²⁴ Cultural competence was unevenly distributed amongst the population

²⁰ *Hansard Parliamentary Debates*, 3rd series, vol. 145 (11 May 1857): col. 103.

²¹ Saunders, ‘Victorian’ 154.

²² Ian Hunter, David Saunders, and Dugald Williamson, *On Pornography: Literature, Sexuality and Obscenity Law* (Houndmills: Macmillan, 1993) 76.

²³ Saunders, ‘Copyright’ 436. The 1727 case of *Dominus Rex v. Curl* was the first time that the publication of an obscene libel was deemed a misdemeanour in the English common-law court (Craig 32; Saunders, ‘Copyright’ 236).

²⁴ Saunders, ‘Victorian’ 157.

and moral vitality, stemming from this competence, was likewise variable, hence the concept of 'variable obscenity.' Obscenity law was thus directed not at some abstract, universal subject but at a particular demographic and for Saunders, obscenity law, if narrowly construed as a mechanism of censorship fails to account for these historical, political, and cultural variations.

These are cogent arguments but they are based on a narrow understanding of censorship as repressive legislation, a rigid definition shared with the censorship proponents criticised in their work. Saunders, Hunter, and Williamson do not dispute the definition of censorship as legal assault informing extant accounts, merely the assertion of its prevalence. Like Foucault, Saunders, Hunter, and Williamson historicise the operation of power yet retain an essentially ahistorical conception of censorship: they remain immured in an extirpative model of censorship, that is, censorship as excision, destruction, and suppression. By contrast, this chapter proposes to rethink the concept of censorship itself. Censorship more broadly conceived departs from this rigid view of it as a self-validating construct framed by the parameters of Foucault's repressive hypothesis.

A second qualification must be made with respect to Saunders's argument, to his insistence that the distinction between pornography and 'fine literature' was never under dispute, that, at least at the time of the Obscene Publications Act, 'aesthetic value and the criminal harms attributed to obscenity did not come into conflict.'²⁵ Obscene publications, Hunter, Saunders and Williamson maintain, were readily identifiable by their contents, distributive channels, and sites of sales.²⁶ Yet as Barbara Leckie convincingly argues, that there was such heated debate surrounding the passage of the Act is an indication that these aesthetic categories were not as stable and obvious as Saunders would have us believe. In fact, it was this attempt to regulate obscenity that placed the term under scrutiny and what had hitherto been indisputable—obscenity as a distinct and self-evident category—was revealed to be a convenient, but now, problematic, assumption. The Hicklin judgement, Leckie goes on to argue, led to a definition of obscenity based on the

²⁵ Saunders, 'Victorian' 163.

²⁶ Hunter *et. al.*, 92-3. The Hicklin definition, they argue, emerged not as an attempt to clarify and secure the definition of obscenity, but from certainty, from a confidence in being able to recognise obscenity unequivocally: 'There was no doubt because obscene publication was defined not in the abstract but concretely and circumstantially by its mode and place of dissemination' (71).

concept of the vulnerable reader, but this merely a 'provisionally stabilized' one.²⁷ Leckie's discussion focuses on print culture. If we look at other media, Saunders's contention that there was a clear-cut boundary between art and pornography becomes even more tenuous. This will become apparent in Chapter Six when I look at the nineteenth-century nude, the morality of which was the subject of much contestation even before the passing of the 1857 Act.

Hunter, Saunders and Williamson further claim that the overemphasis on legal mechanisms of control underplays the regulatory roles of other civic and governmental organisations, the 'equally powerful but more organic and diverse regulatory currents flowing through the capillaries of the social body,' comprising both public and private, as well as religious, administrative, and commercial interests.²⁸ While they are correct in drawing attention to the panoply of heterogeneous extra-legal agencies, I would go further to locate regulatory mechanisms not just in identifiable institutional bodies as such, but in discourses which delimit the terms in which texts and their authors are discussed, in a way akin to Bourdieu's theory of a deeper or 'structural' censorship. As will become evident in my discussions of Nordau (and Ellis in Chapter Four), censorship occurs as much within as between particular discursive fields.

At the same time, I am hesitant of relegating law and its technologies of control to a position of secondary importance. Saunders dismisses obscenity trials as aberrant incidences, his brief mention of the cases listed above merely serving to back his claim that the "'censorship" story' is unsupported by empirical evidence.²⁹ Yet infrequent occurrence does not necessarily imply atypical phenomena. If instead of Foucault's (and Saunders's) understanding of censorship as 'one great central mechanism destined to say no,' if censorship is conceived not as the suppression of dissent but as the regulation of discourse, then censorship can be seen as the attempt to control the terms in which issues are discussed and the forms in which they are articulated.³⁰ In this context, the significance of the trials rests not quantitatively in the volume of material destroyed or the number of persons prosecuted, but in their

²⁷ Leckie 39.

²⁸ Hunter *et. al.*, 85.

²⁹ Hunter *et. al.*, 76.

³⁰ Foucault, *History of Sexuality* 12.

efficacy as a public platform for disseminative purposes. M. J. D. Roberts argues that these 'show-trials,' despite their erratic occurrence, were largely representative and can be considered 'the crests of large waves of social anxiety.'³¹ Echoing Foucault but perhaps more willing to concede a use for spectacle, Roberts claims that such trials functioned symbolically, exploiting 'the shaming methods of selective publicity to set limits to public tolerance.'³² Thus, law functionally defines obscenity; court cases are the visible demonstrations and working out of these definitions.

Obscenity trials were thus sites of discursive production, generating a discourse *of* censorship (the enforcement of the boundaries of the acceptable); a discourse *on* censorship (the provision of a discursive space and the vocabulary with which prohibition itself might be discussed); and, paradoxically, a discourse circumventing censorship. By a discourse circumventing censorship, I go beyond the idea that censorship negates itself through citational repetition in the courtroom. Stemming from a definition of censorship as silencing, this argument suggests that censorship is a futile exercise, given that obscene utterances are cited in court as accusation or as evidence, thus repeating the offence, if only in citation.³³ Moreover, the notoriety of prosecution brings the text in question to wider attention and is thus unintentionally complicit in publicising and marketing this text.³⁴ My contention is

³¹ M. J. D. Roberts, 'Blasphemy, Obscenity and the Courts,' *Writing and Censorship in Britain*, ed. Paul Hyland and Neil Sammells (London: Routledge, 1992) 144.

³² Roberts, 'Blasphemy' 145.

³³ The 1888 Law of Libel Amendment forbade the repetition of offensive words by the press when reporting court proceedings, and stipulated that indictments and court records need only include 'particulars showing precisely, by reference to pages, columns, and lines, in what part of the book, newspaper, or other document, the alleged libel is to be found' (cited in Marsh 237-8), thereby circumventing procedural re-offending.

³⁴ Elizabeth L. Eisenstein notes that in the early stages of print censorship, the Catholic Index of proscribed books provided clandestine publishers with a ready catalogue of 'profit-making titles and free advertising,' while alerting potential customers 'to the existence of forbidden fruit' (*The Printing Press as an Agent of Change: Communications and Cultural Transformations in Early-Modern Europe* (Cambridge: Cambridge UP, 1979) 145). Commenting on modernist trials, Joyce Wexler claims that '[c]ensorship advertised the work of Joyce and Lawrence far beyond the avant-garde audience' ('Selling Sex as Art,' *Marketing Modernism: Self-Promotion, Canonization, Rereading*, ed. Kevin Dettmar and Stephen Watt (Ann Arbor: U of Michigan P, 1996) 91). Catherine A. MacKinnon argues that obscenity law 'helps keep pornography sexy by putting state power—force, hierarchy—behind its purported prohibition on what men can have sexual access to' (*Feminism Unmodified: Discourses on Life and Law* (Cambridge, Massachusetts: Harvard UP, 1987) 162).

Both Zola and Vizetelly were accused of exploiting notoriety for commercial ends. Samuel Hynes claims that the titling of *The Soil* as *A Realistic Novel* was a 'mistake' on the part of Vizetelly, given that 'in 1888 "realistic" was almost an obscenity in itself, and certainly in many minds it was a promise of obscenity to follow' (259-60). Read less ingenuously though, the term becomes a strategic appellation that markets the book precisely as 'a promise of obscenity.' As such,

that obscenity trials generate a set of proscribed texts and authors, investing in them a sense of criminality that has signifying purchase in itself. Beyond the substantive contents of the book or the author's words, these texts and authors come to signify obscenity metonymically, offering ways of denoting obscenity without articulating it. This guileful and circuitous rendering of the taboo enables the obscene to be suggested without fear of censorious interference in a process of co-option and resignification. The manner in which the target of censorship exceeds the censor's reach will become clear when I discuss the use of the signifier 'Zola' in the aftermath of the trials at the end of this chapter. Thus, censorship, which purports to control discourse, whether through material suppression or less tangibly, through delegitimation, not only cannot contain dissident articulations, but further, may be appropriated for subversive purposes.

In this chapter and the next, I revisit two of the cases dismissed by Saunders, the first being the prosecutions of Vizetelly. For Vizetelly's defenders, the case epitomises the illogical nature of censorship. Such critiques typically focus on several issues—the philistinism in the failure to recognise what have since become French 'classics'; the irrationality of the exercise, since the original French texts were freely available; and the class hypocrisy attendant on the process, the translations' greatest offence being their accessibility in terms of price and language. Alec Craig asserts that the 'outcome of the battle between Henry Vizetelly and Victorian prudery showed that [obscenity law was an] ... effective menace to creative writing.'³⁵ For Donald Thomas, the case exemplifies the capricious nature of nineteenth-century censorship, the 'illiberality' with which the law was interpreted.³⁶ Thomas posits, on the one hand, Vizetelly, who 'published respectable literature, as he thought, and went to prison,' and on the other, James Camden Hotten, who 'published pornography as a sideline and died in 1873 still a free man.'³⁷ In a manoeuvre that conveniently overlooks the market imperatives informing the business practices of any astute commercial publisher, Vizetelly is frequently appropriated as a champion of free

this is not a failure to understand the full implications of 'realistic' but an exploitation of these connotations, one later proven to be miscalculated.

³⁵ Craig 48-9.

³⁶ Thomas 270.

³⁷ Thomas 261.

speech, a 'martyr in the cause of freedom to publish and be damned.'³⁸ Such eulogising still persists, with a recent critic lauding Vizetelly as a 'much wronged man ... who fought incessantly against literary censorship and was eventually so battered by the judicial system that he died as the result of a most monstrous prison sentence.'³⁹

The above have in common the perception that law sought unequivocally to extinguish literature. Yet the interaction between the two fields has a more nuanced and productive history.⁴⁰ The novel in the late eighteenth to early nineteenth centuries drew on legal models of truth-telling, borrowing juridical conventions for asserting the authority and gauging the credibility of truth claims. At the same time, with the 'lawyerisation' of the criminal trial, the court became 'a newly complex storytelling forum,' the courtroom dialogism of competing narratives rendering it a novelistic space in a Bakhtinian sense.⁴¹ The relationship was at once symbiotic and antagonistic though, for both novelistic and legal discourses were modes of representation vying for authority, each claiming epistemological supremacy for its narrative of events.⁴² The point of this brief overview is to show that the allegation of law as extirpative force is merely one part of a much richer narrative. This chapter supplements these narrower readings to show that censorship involved a more complex exchange, not just between literature and the law, but with other discursive fields as well. Jan-Melissa Schramm argues that by the end of the century, literary realism, in large part because of a greater willingness to experiment with ambiguity

³⁸ Ronald Pearsall, *Public Purity, Private Shame: Victorian Sexual Hypocrisy Exposed* (London: Weidenfeld and Nicolson, 1976) 121. Peter Keating is one exception to this general failure to consider the relationship between censorship, commerce, and transgressive art. Keating argues that given his largely profit-driven activities, Vizetelly 'was not a particularly attractive candidate for literary martyrdom' (*The Haunted Study: A Social History of the English Novel 1875-1914* (London: Secker and Warburg, 1989) 245).

³⁹ Alison Hennegan, 'Personalities and Principles: Aspects of Literature and Life in Fin-de-Siècle England,' *Fin-de-siècle and its Legacy*, ed. Mikuláš Teich and Roy Porter (Cambridge: Cambridge UP, 1990) 184.

⁴⁰ The relationship between narrative fiction and legal processes is a topic of much discussion. See, for instance, Ian Watt, *The Rise of the Novel: Studies in Defoe, Richardson and Fielding* (1957; London: Pimlico, 2000); Kieran Dolin, *Fiction and the Law: Legal Discourse in Victorian and Modernist Literature* (Cambridge: Cambridge UP, 1999); Alexander Welsh, *Strong Representations: Narrative and Circumstantial Evidence in England* (Baltimore: Johns Hopkins UP, 1992).

⁴¹ Jonathan H. Grossman, *The Art of Alibi: English Law Courts and the Novel* (Baltimore: Johns Hopkins UP, 2002) 20.

⁴² See also Jan-Melissa Schramm, *Testimony and Advocacy in Victorian Law, Literature and Theology* (Cambridge: Cambridge UP, 2000). From the perspective of reception, Ian Watt claims a

and instability, had moved beyond the conventions of 'evidentiary proof.'⁴³ But while this shift may denote a widening gap between the two disciplines in terms of the inner logics of the novel, the prosecution's injunctions against Zolaesque naturalism suggest that the law had not fully relinquished its interest in a particular form of realism: the trials were a public vilification of one representation of reality, one that was figured as debasing and obscene.

Zola and the Law: The Vizetelly Prosecutions

'It is the shame of Zola that he has put an end to reticence.' Thus pronounces *The Western Morning News* in the wake of Henry Vizetelly's prosecution in 1888 by the National Vigilance Association for publishing the works of this 'filthy' writer.⁴⁴ It is a reticence that is discarded in Zola's adherence to his naturalist credo, in his uncompromising depictions of bucolic life in *La Terre*, the Parisian demi-monde in *Nana*, and the petty machinations in the bourgeois apartment building in *Pot Bouille*. This lack of reticence on Zola's part is equally matched by that of the press in its excoriating outbursts. The imprecations on Zola and Vizetelly, the calamitous prognostications for nation and culture, the calls for extirpative vigilance, the fetishistic dwelling on the text's criminality, would indicate a larger circle of culpability in this 'end to reticence': if Zola offends by his want of discretion, the press is no less blameless in that regard.

That censorship risks undermining its own operation in this manner was a conundrum of which nineteenth-century commentators were certainly aware. The Secretary of State for the Home Department warns against 'direct[ing] public attention to certain obscure publications of a filthy character known only to the few

similar analogy between the novel reader and the jury member: 'both want to know "all the particulars" of a given case ... [and] expect the witnesses to tell the story "in his own words"' (31).

⁴³ Schramm 186. I would add that in the case of naturalism, it was towards science that fiction turned for its legitimating paradigms.

⁴⁴ Cited in Coote, *Pernicious* 25. The summons taken out by the National Vigilance Association against Vizetelly named the following works: Zola's *The Soil* (*La Terre*), *Piping Hot* (*Pot-Bouille*), and *Nana*; Gustave Flaubert's *Madame Bovary*; Alphonse Daudet's *Sappho*; Guy de Maupassant's *Bel Ami*; and Theophile Gautier's *Mademoiselle de Maupin* (Craig 57); only the Zola translations

by instituting a State prosecution, and thus give that wide advertisement which those who brought them out would desire more than anything else.⁴⁵ *The Western Morning News* explicitly refrains from offering proof of Zola's obscenity to avoid 'do[ing] the evil which we deprecate.'⁴⁶ To look at legislative directives as merely draconian measures that are ultimately self-defeating ignores the way in which obscenity trials are situated in complex intersections of both discursive and non-discursive networks. Instead of sterile Manichaean narratives of struggle between the censor and the censored, obscenity law might alternatively be conceived as an administration of vice, a form of social policing⁴⁷ or the channelling of obscenity.⁴⁸

A prominent figure in the publishing world, Vizetelly had played an integral role in mid-century developments in the English press and is credited with introducing a number of significant writers to the British reading public.⁴⁹ By 1884, when Vizetelly & Co. first took interest in translating his work, Zola was already a figure of considerable notoriety, both in his native France and across the channel.⁵⁰ The public outcry and allegations of pornographic intent following the publication of *Thérèse Raquin* in 1867—it had appeared earlier that year in serial form as *Un mariage d'amour* to similar controversy—led Zola to preface his 1868 edition with a counterattack on the 'maidenly susceptibilities' of his detractors and a defence of his mode of naturalism.⁵¹ '[M]y object,' he avers, 'has been first and foremost a

were committed for trial (Ernest Alfred Vizetelly, *Émile Zola: Novelist and Reformer. An Account of his Life and Work* (London: Bodley Head, 1904) 268).

⁴⁵ *Hansard*, vol. 325 (8 May 1888): col. 1720.

⁴⁶ Cited in Coote, *Pernicious* 25.

⁴⁷ Beverley Brown, 'Troubled Vision: Legal Understandings of Obscenity,' *Perversity*, spec. issue of *New Formations* 19 (1993): 35.

⁴⁸ Hunter *et. al.*

⁴⁹ Vizetelly was involved in the agitation for the repeal of the paper duty and founded several newspapers, including *The Illustrated London News*, *The Pictorial News*, and *The Illustrated Times*. In his later career as publisher, he brought to Britain the works of Russian writers, such as Gogol, Dostoevsky, and Tolstoy, American writers, such as Harriet Beecher Stowe, Poe and Longfellow, and of course, French writers. (Biographical material on Vizetelly relating to the trials is taken primarily from his son Ernest Vizetelly's 1904 biography of Zola. Vizetelly's two-volume autobiography, though published in 1893, does not deal with these events. To my knowledge, there are no official transcripts of the Central Criminal Court trials. My main sources are newspaper reports and the report in the publication by the National Vigilance Association, *Pernicious Literature*).

⁵⁰ See Clarence R. Decker, 'Zola's Literary Reputation in England,' *PMLA* 49.4 (1934) for an overview of Zola's reputation in England.

⁵¹ Émile Zola, preface, *Thérèse Raquin*, trans. Leonard Tancock (1868; Harmondsworth: Penguin, 1962) 21. Zola's biographer, Frederick Brown, claims that the novel's 'infamous success' was due in large part to its denunciation in *Le Figaro* as '*la littérature putride*' by influential critic 'Ferragus,' pseudonym of Louis Ulbach (*Zola: A Life*, (New York: Farrar, 1995) 160). For Ferragus, *Thérèse Raquin* epitomises the worst of the 'monstrous school of novelists' which, with its 'eloquence of the

scientific one.’⁵² Thus motivated purely by ‘scientific curiosity,’ the depiction of the adulterous, murderous, and ultimately self-destructive affair ‘meant nothing immoral to me, nothing calculated to provoke indulgence in evil passions.’⁵³ Zola’s plea of scientific disinterest was to no avail however, and in subsequent years, his increasingly provocative output elicited further execration, not only from the ‘British Pharisees,’ an epithet coined by Vizetelly’s son Ernest, but also from his literary contemporaries, amongst whom were Anatole France and Algernon Swinburne.⁵⁴

The energy with which Vizetelly was pursued must be placed in the context of ‘the “moral panic” of the mid-1880s,’ caught up as he was in the momentum of the repeal movement, W. T. Stead’s ‘Maiden Tribute of Modern Babylon’ exposé, and the passing of the Criminal Law Amendment Act.⁵⁵ While the repealers’ goal was the enforcing of a single standard of morality, Stead’s sensationalist ‘New Journalism’ exploited the scandal of child prostitution, invoking traditional class antipathies with his anti-libertarian rhetoric. This concern over the vulnerability of youth and concomitantly, the iniquity of those who would exploit them, permeates discussions of the trials. In the 1888 trial, Vizetelly pleaded guilty, undertook to withdraw three Zola novels from circulation, was fined, and entered into recognisances. Financial exigencies forced him to turn once again to his translations,

chanel house,’ depraves and ‘fills our minds with pus’ (‘Putrid Literature,’ trans. Barbara Gough, *Critical Essays on Émile Zola*, ed. David Baguley (Boston: Hall, 1986) 25).

⁵² Zola, preface 22. Zola’s prose reflects this ‘scientific’ intent. Descriptive passages, as for instance, of the Raquins through the windows of their home in the opening chapter, position the narrator and interpellate the reader as detached observers, while the narrative voice takes on the objective tone of the scientist. Commenting on the effects of their murder of Camille on Thérèse and Laurent, the narrator opines that ‘[i]t would be interesting to study the modifications that sometimes take place in certain organisms as results of predetermined circumstances’ (170), at once casting the protagonists as experimental subjects and denoting an impersonal intellectual curiosity with the casually speculative ‘it would be interesting.’ Gilbert D. Chaitin argues that Zola’s use of free indirect discourse in *l’Assommoir* signals a move away from this objectifying impulse, allowing his characters a distinct voice in narration and thus a degree of autonomy, but as is evident here, the earlier work asserts an objectifying distance between narrator and character (‘Listening Power: Flaubert, Zola, and the Politics of style indirect libre,’ *The French Review* 72.6 (1999)).

⁵³ Zola, ‘Preface’ 24, 23.

⁵⁴ E. Vizetelly 242. Given his own literary reputation, Swinburne seems a surprising critic, but he was vociferous in disavowing any connection with Zola. He asserts in the *Athenaeum* that although his name was erroneously listed as contributor to the volumes of *La République des Lettres* in which Zola’s *l’Assommoir* was serialised, he had in fact ‘all the weeks and all the months of its long and loathsome progress kept out of the desecrated pages’ (‘Note on a Question of the Hour,’ *Critical Essays on Émile Zola*, ed. David Baguley (Boston: Hall, 1986) 32-3).

⁵⁵ M. D. J. Roberts, ‘Making Victorian Morals? The Society for the Suppression of Vice and Its Critics, 1802-1886,’ *Historical Studies* 21.83 (1984): 171. See also Judith Walkowitz, *City of*

subjecting them to further excision. Vizetelly, 'in all good faith, believed that he was entitled to sell Zola's books if he rendered them unobjectionable by further expurgation,' justified his son, yet once again was subject to prosecution and was jailed for three months on this occasion.⁵⁶ While it is true that Vizetelly did not receive much support from the literary establishment, George Moore, one of the company's authors, did speak out for him, and some thirty years later and no less polemically, accused the state not only of a miscarriage of justice, but of the 'judicial murder' of his late friend (who had died in 1894).⁵⁷

The Pathologisation of Zola: Nordau and *Degeneration*

Zola's works were subject not only to explicit legal strictures, but to discursive regulatory mechanisms as well. In the context of late nineteenth-century literary censorship, one such discourse was that of degeneration, which, while deriving from evolutionary biology, was readily adapted into the popular vocabulary as a mode of cultural critique. In the face of the unprecedented scope of change characterising the advent of modernity—industrialisation, urbanisation, and the concomitant social and political upheavals—the concept of degeneration proved a conveniently versatile and more importantly, an authoritative designation, versatile because the concept was theoretically loose, but authoritative nonetheless, from its status as scientific discourse. The language of biological decline was deployed effectively to characterise national and aesthetic concerns, although the extent to which these concerns were believed to implicate each other or alternatively, conflated in the popular mind renders them difficult to separate.⁵⁸ Critics attribute the discursive

Dreadful Delight: Narratives of Sexual Danger in Late-Victorian London (London: Virago, 1992); Donald Thomas, *The Victorian Underworld* (1998; London: John Murray, 2003).

⁵⁶ E. Vizetelly 282. The texts committed to trial were Zola's *Abbé Mouret's Transgression*, *The Rush for the Spoil* (*La Curée*), *Fat and Thin* (*La Ventre de Paris*), *His Excellency Eugène Rougon*, and *How Jolly Life Is* (*La Joie de Vivre*); Paul Bourget's *A Love Crime*; and Guy de Maupassant's *A Ladies' Man* (*Bel Ami*). The National Vigilance Association's summons had included in addition, *l'Assommoir*, *Nana*, and *The Fortune of the Rougons*; Flaubert's *Madame Bovary*; and Maupassant's *A Woman's Life* (E. Vizetelly 285-6).

⁵⁷ Edward de Grazia, *Girls Lean Back Everywhere: The Law of Obscenity and the Assault on Genius* (London: Constable, 1992) 704; Keating 249; Moore, 'Literature and Morals,' *Century* (May 19, 1919): 52. At the time of the trials, Moore attempted to publish a defence of Vizetelly coupled with an attack on moral vigilantism, but his piece was rejected by *Fortnightly Review*.

⁵⁸ Stephen Arata, *Fictions of Loss in the Victorian Fin de Siecle* (Cambridge: Cambridge UP, 1996) 2-3. The seamless movement from the aesthetic to the moral to the physiological is evident in the typical

ubiquity of degeneration to both its aptness as an expression of *fin de siècle* anxieties and its efficacy as an explicatory concept.⁵⁹ J. Edward Chamberlin and Sander L. Gilman, for instance, see it as a powerful ordering principle, 'part of a convenient dialectic for the organization of contemporary thought and feeling.'⁶⁰ Others focus on degeneration as a discursive mechanism of class legitimation. According to William Greenslade, it offered 'the conventional and respectable classes' the means to 'justify and articulate their hostility to the deviant, the diseased and the subversive.'⁶¹ This flexibility in usage suggests the power of the concept and explains its tenacity in late-century society.

Perhaps the most notorious attack on French naturalism was Max Nordau's *Degeneration*, first published in Germany in 1892 and in translation in England in 1895, a text which might be seen as an extreme codification of general anxieties in medico-psychiatric terminology.⁶² Susan Sontag, referring to tuberculosis and

injunctions against the 'moral epidemic' of pernicious publications as a 'loathsome contagious disorder of soul and body' (cited in Coote, *Pernicious* 26).

⁵⁹ For discussion of *fin de siècle* cultural anxieties, see Lyn Pykett ed., *Reading Fin de Siècle Fictions* (London: Longman, 1996); Sally Ledger and Scott McCracken ed., *Cultural Politics at the Fin de Siècle*, (Cambridge: Cambridge UP, 1995); John Stokes ed., *Fin de Siècle/Fin du Globe: Fears and Fantasies of the Late Nineteenth Century* (Houndmills: Macmillan, 1992).

For an alternative view, see Mikuláš Teich and Roy Porter, who challenge the negative conception of *fin de siècle* as cultural malaise, arguing instead that this period was a 'watershed' in areas as diverse as commerce, science, culture, and philosophy (Introduction, *Fin-de-siècle and its Legacy*, ed. Mikuláš Teich and Roy Porter (Cambridge: Cambridge UP, 1990) 2).

⁶⁰ J. Edward Chamberlin and Sander L. Gilman, 'Degeneration,' introduction, *Degeneration: The Dark Side of Progress*, ed. Chamberlin and Gilman (New York: Columbia UP, 1985) x.

⁶¹ William Greenslade, *Degeneration, Culture and the Novel 1880-1940* (Cambridge: Cambridge UP, 1994) 2.

⁶² It might reasonably be argued that Lombroso's work on genius would be as apposite as Nordau's for framing a discussion of discourses on degenerate authorship. Certainly by the end of the century, both were familiar names not only in professional communities but also in popular culture, as is evident in Bram Stoker's casual reference to both authorities in his 1897 *Dracula*. Here, he significantly has Mina Harker, and not her professional companions, proclaim, 'The Count is a criminal and of criminal type. Nordau and Lombroso would so classify him, and *qua* criminal he is of imperfectly formed mind' (Bram Stoker, *Dracula* (Oxford: Oxford UP, 1983) 342). While Nordau's *Degeneration* is dedicated to Lombroso, his 'dear and honoured master' (Max Nordau, *Degeneration*, (1895; Lincoln: U of Nebraska P, 1993) vii), they diverge on one significant point. Lombroso is willing to concede some value in insanity: genius, as the exceptional, is an aberration, and thus a form of degeneration, while Nordau, as Lombroso himself points out, comes to the opposite conclusion that 'They are insane; therefore they are not geniuses' ('Nordau's "Degeneration": Its Value and Its Errors,' *Century Magazine* 28 (1895): 938, emphases in original). Nordau counters that there is a difference between a healthy anomaly that is productive—'true evolutionary genius'—and the atavism of 'degenerate pseudo-genius' ('A Reply to My Critics. By the Author of "Degeneration",' *Century Magazine* 28 (1895): 546-51, 551). The role of the diagnostician-critic is to make this distinction explicit and as I discuss below, this is where Nordau's task converges with that of the censor. See also Nordau's and Lombroso's exchange of letters published in the same issue of *Century Magazine*. Additionally, in the context of literary censorship, Nordau's examination of the literary

cancer, argues that ‘it is diseases thought to be multi-determined (that is, mysterious) that have the widest possibilities as metaphors for what is felt to be socially or morally wrong.’⁶³ Nordau’s concept of degeneration has wide applicability, due, not to its mysteriousness, but conversely, to his meticulous taxonomic drive. Moreover, what is presented is no metaphor for decline, but an actual description of a pathological condition. Nordau attributes what he perceives as the increase in the occurrence of nervous pathologies to the physical and psychological pressures brought on by modernity, the ‘vertigo and whirl of our frenzied life, the vastly increased number of sense impressions and organic reactions, and therefore of perceptions, judgments, and motor impulses, which at present are forced into a given unity of time.’⁶⁴ One manifestation of this ‘general hysteria’ is the prevalence of new aesthetic schools, amongst them, Symbolism, Decadents and Aesthetes, ‘the Richard Wagner Cult,’ and for my purposes here, most significantly, ‘Zola and his School’ (40). Supplementing Lombroso’s work on the criminal type and its distinguishing physical characteristics or stigmata, Nordau claims that the degenerate might additionally be identified from ‘intellectual stigmata,’ the irregularities of ‘mental physiognomy’ common to these categories of deviancy (18-9). Because of his ‘unbounded egoism’ and impulsiveness, the degenerate typically lacks any sense of morality (18). Other identifying features include emotionalism, an excessive and irrational sensibility, and pessimism. Tellingly, despite the painstaking elaboration on each of his subjects, Nordau on numerous occasions conflates these ‘aesthetic schools,’ as evident, for instance, in his explanation of their ‘natural history’:

Under the influence of an obsession, a degenerate mind promulgates some doctrine or other—realism, pornography, mysticism, symbolism, diabolism. He does this with vehement penetrating eloquence, with eagerness and fiery heedlessness. (31)

Whereas pornographic purpose or effect are frequently adduced as justification for censorship, Nordau perfunctorily merges pornography with other ‘doctrines’ under the single rubric of degeneration. The locus of legitimation, it would seem, has

output of his patients makes him a particularly apt subject for my purposes. As Arata has astutely observed, *Degeneration* is primarily a ‘work of literary criticism’ (27).

⁶³ Susan Sontag, *Illness as Metaphor* (Harmondsworth: Penguin, 1983) 65.

⁶⁴ Nordau, *Degeneration* 42. Further references will be in-text.

shifted from the field of aesthetic judgement, the province of the mid-century man of letters, to that of medical diagnosis.⁶⁵

This interaction between putatively distinct fields of knowledge deserves further consideration. Daniel Pick places the controversies surrounding Zola's fictional explorations of degeneration in the broader context of disciplinary dispute, in the uneasy, if not antipathetic relationship between the scientific and the literary:

Science in general, it appeared, was threatened by fictions which were themselves prurient and degenerate. The 'obscenity' of a Zola or an Ibsen was in part the refusal to respect the 'proper' spheres and borders of art. Science, it was insisted, had to be jealously defended against the encroachment of naturalist authors and the laconic proclamations of self-styled 'decadents.'⁶⁶

At stake then was not simply the issue of degeneration and the concomitant anxieties over cultural and moral decline, but that of disciplinary authority: the question of who can legitimately pronounce on and judge such matters. Even while pathologising Zola's literary output—'Zola's novels do not prove that things are badly managed in this world, but merely that Zola's nervous system is out of order'—Nordau still vigorously criticises the 'optical illusion' of Zola's 'false science,' dismissing it as a mere assemblage of sordid detail masquerading as legitimate scientific observation.⁶⁷ What is missing in Pick's account is consideration of Nordau's own cross-disciplinary manoeuvres. Pick characterises the disciplinary skirmishes as a jealous defence of boundaries on the part of 'Science' against the impudence of the unauthorised diagnostician. I would argue that Nordau's forays into literary criticism were not just defensive strategies but deliberate acts of

⁶⁵ For a discussion of the man of letters and his later incarnation as the professional intellectual, see T. W. Heyck, 'From Men of Letters to Intellectuals: The Transformation of Intellectual Life in Nineteenth-Century England,' *Journal of British Studies* 20.1 (1980).

⁶⁶ Daniel Pick, *Faces of Degeneration: A European Disorder, c. 1848–c. 1918* (Cambridge: Cambridge UP, 1989) 74. That Nordau was not alone in this pathologising endeavour is evident in other excoriating commentaries on Zola and the age. *The Methodist Times*, for example, asserts with finality that 'Zolaism is a disease. It is a study of the putrid ... No one can read Zola without moral contamination' (cited in Coote, *Pernicious* 27). Walter Lecky, in his tellingly titled 'Downfall of Zolaism,' likewise couches his appraisal in jargonistic terms, the references to Zola's 'ego' and the 'morbid sciolists' who form his 'converts' reminiscent of Nordau's vocabulary ('Downfall of Zolaism,' *Catholic World* 61 (1895) 359). Significantly, Lecky's article was published in the same year as the appearance in English of Nordau's *Degeneration*.

⁶⁷ Nordau 489, 488. For all the vehemence of his attack, Nordau is not entirely without reason in his claims about Zola's 'science.' See Christopher Rivers, *Face Value: Physiognomical Thought and the Legible Body in Marivaux, Lavater, Balzac, Gautier, and Zola* (Wisconsin: U of Wisconsin P, 1994)

disciplinary imperialism. As Stephen Arata points out, Nordau's work, comprising 'almost exclusively of extended analyses of literary texts,' was akin to that of the literary critic.⁶⁸ More generally, his diagnostic technique necessitated a hermeneutic engagement with the stigmata of degeneracy, an overdetermined reading of textual elements as pathological signifiers.⁶⁹ This interpretative process is also a narrativising exercise, moreover, one modelled on realist fiction, for the positivist logic by which the patient's history and character are (re)constructed is, for Arata, analogous to that at work in nineteenth-century realism.⁷⁰ We must thus take with suspicion Nordau's statement that '[i]n the past a confusion between art and science was possible; in the future it is unimaginable' (548), for this 'confusion' is perpetuated by his own appropriation of a recognisable literary form and attempted colonisation of that literary field.⁷¹

In what sense might degenerationist discourse be considered censorship? Censorship, if understood as the control of discourse, is a term equally applicable to both legal prosecution and Nordau's cultural critique. Leaving aside the issue of its efficacy for the moment, *Degeneration* censors by attempting to confine to the medical field the terms in which the aesthetic is articulated and indeed, in its claim even, that the aesthetic is a function of the medical. More specifically, Nordau himself expresses an affinity with the literary censor whose interpretative acuity he observes with approval.⁷² The aesthetic vagaries and moral lassitude of the

for a critique of Zola's 'scientific' methodology. As I will show in Chapter Five, a similar contest for authority was being fought in the visual arts in *Whistler v. Ruskin*.

⁶⁸ Arata, *Fictions of Loss* 27.

⁶⁹ Arata argues further that this kind of close reading or 'overreading' was characteristic of many late nineteenth-century professional disciplines, including, for example, psychiatry, criminology and anthropology (*Fictions of Loss* 19, 4).

⁷⁰ Arata, *Fictions of Loss* 22.

⁷¹ The relationship between literature and science was not uniformly hostile. It was for the greater part a productive interaction, with much 'cross-fertilization' between the two fields (John Kucich, 'Scientific Ascendancy,' *A Companion to the Victorian Novel*, ed. Patrick Brantlinger and William B. Thesing (Malden, Massachusetts: Blackwell, 2002) 121). There were, for example, affinities between realist fiction and positivist science, in epistemology and in methodology, and both catered to a common educated lay public.

⁷² For another way in which censorship is articulated in a scientific language, see Blanche Leppington, who appropriates evolutionary discourse to legitimate the activities of the censor while simultaneously reinstating mid-century notions of agency. She demands of man, who 'is now the living witness of his own evolution: must he not be henceforth a conscious agent in directing it? He must follow [Nature's] methods then. He must elect, reject, conserve, suppress' ('The Debrutalisation of Man,' *Contemporary Review* 67 (1895): 727). Censorship is here naturalised—literally—as the function and end of Nature: Leppington's call for the suppression of books 'which sell for a shilling on every stall as mere indecency' is rationalised as 'natural selection by a process of ethical elimination' (733, 728).

degenerate, he confidently asserts, should be evident to 'every healthy censor who does not allow himself to be prejudiced by the noisy admiration of critics, themselves degenerates' (24). Insofar as Nordau's project is to disabuse his public of any misconception regarding these self-proclaimed geniuses, he is surely the 'healthy censor' par excellence. Conversely, the lack of judgement on the part of the appreciative critic is construed not as misplaced enthusiasm but as an indication of the critic's own degeneracy. Nordau's solution is given in three succinct steps: 'Characterization of the leading degenerates as mentally diseased; unmasking and stigmatizing of their imitators as enemies to society; cautioning the public against the lies of these parasites' (560) While abjuring the aid of state-sponsored censorship—'[t]he public prosecutor and criminal judge are not the proper protectors of society against crime committed with pen and crayon'—Nordau nevertheless appeals to a 'critical police' and the ultimate end of his project as envisaged is uncompromisingly suppressive (557-8, 535):

...work and man would be annihilated. No respectable bookseller would keep the condemned book; no respectable paper would mention it, or give the author access to its columns; no respectable family would permit the branded work to be in their house. (559)

Nordau combines a medicalising discourse with a rhetoric of violence, calling into question Foucault's distinction between the brutality of sovereign power and the life-fostering individuation of medicalisation. On the one hand, the 'lusting beast of prey' is warned that 'we will pitilessly beat you to death with clubs' (557), yet on the other, the call for annihilation is articulated in terms of revelation and unmasking, rather than concealment and coercion: 'All the seductive masks must be torn from these tendencies [of mysticism, ego-mania, and pessimism],' Nordau insists, 'and their real aspect be shown in its grinning nakedness' (533). This is censorship in

The shift in justificatory framework from the paradigms of traditional Christian morality to those of biological and evolutionary is clearly observable. Degenerative forces 'are so many malarial and lethal germs feeding upon the social organism' and the censor is by implication figured as physician, purging the body politic of parasitic infestation (734). Like Nordau, Leppington aligns the censor with the professional diagnostician, but further enforces the censor's legitimacy by aligning the censor's task to that of Nature.

It should be noted that while Leppington's facile co-option of a scientific vocabulary indicates a shift away from religious faith, other members of the purity movement amalgamated evolutionary science with Christian morality. Ellice Hopkins, for example, re-articulated the Christian narrative of the struggle with sin as a Darwinian evolutionary tale, enlisting the authority of science in

Burt's sense of delegitimation, censorship not through material suppression, but through the denial of these books as legitimate aesthetic expressions or valid social commentary.

There is nonetheless some overlap between Nordau's censorship of delegitimation and the explicit objectives of legal operations, despite his scepticism towards the latter. Of the authors of the works targeted by the National Vigilance Association, Zola merits a whole chapter, with Nordau elaborating exhaustively on his 'undeveloped or mystically confused thought, which is found among savages in a natural form, and among the whole category of degenerates in an atavistic form of mental activity' (494). The 'egomaniac' Gautier is accused of 'lacking all sympathy and joy with the external world,' his only emotions 'apart from his arrogance and vanity, are those connected with sex' (285). Flaubert is labelled an obsessive 'worshipper of words,' this 'puerile pursuit of words' likewise symptomatic of a degenerate disposition (267, 270). Of Nordau's other subjects, a considerable number were also the target of censorship procedures, both official and unofficial, for example, Tolstoy, Swinburne, Ibsen and Baudelaire.⁷³

I am not suggesting that Nordau's text was some sort of unofficial blueprint for censors. After all, in chronological sequence, the publication of *Degeneration* postdated the Vizetelly trials. I am, however, pointing to the difficulty in delimiting a category of activity as censorship by separating general societal pressures and the power of normalising constructions from more explicit shows of force. In this way, the Vizetelly case is not so much an isolated incident as Saunders claims, but one expression of cultural anxiety of which Nordau's dissertation is another. Moreover, the prosecutor drew on a similar degenerationist vocabulary, for while the focus of the trials, unlike that of *Degeneration*, was not the degeneracy of author or translator per se, concern over the moral susceptibility of youth stems from a similar

her reformist programme (Sue Morgan, 'Faith, Sex and Purity: the Religio-Feminist Theory of Ellice Hopkins,' *Women's History Review* 9.1 (2000)).

⁷³ According to Daniel Balmuth, Tolstoy maintained a precarious relationship with the official censors, and some of his works were banned or expurgated (*Censorship in Russia, 1865-1905* (Washington D.C.: UP of America, 1979) 103, 124). In 1866, the designated publisher of Swinburne's *Poems and Ballads* reneged in fear of potential prosecution although the project was later taken up by John Hotten (Thomas, *Long Time Burning* 252-3). The Lord Chamberlain's Office refused to grant a licence to Ibsen's *Ghosts*, which was subsequently performed in a private theatre (Stephens 142-3). Baudelaire's *Les Fleurs du Mal* was successfully prosecuted for obscenity in France in 1857 (E. S.

framework of evolutionary thought. As undeveloped man, the child's relation to the normative bourgeois subject is analogous to that of the degenerate races to their civilised or more advanced counterparts. This homology between the ontogenic and the phylogenic suggests a common conceptual grounding which in turn implies that cases such as the Vizetelly trial are not anomalous but continuous with other discursive and regulatory trends.

Just as significant are the differences in these separate attacks on French naturalism, both of which I have called censorship. Conceptual differences were already evident in the respective approaches of law and of Nordau's medico-psychological analysis to the most elemental and most concrete unit of censorship concern, the problem book. Discussion of the problem of obscene publications was pervaded by the discourse of disease and contagion. It is a 'moral epidemic,' writes Lord Mount-Temple to *The Times*, a 'loathsome contagious disorder of soul and body.'⁷⁴ *The Sentinel* intones against the 'leprous character' of Zola's work,⁷⁵ while Samuel Smith M.P, in a speech delivered to the House of Commons in 1887, rants against the 'malarious fog' cast by the 'moral pestilence' of divorce court journalism.⁷⁶ This was a potent metaphor, familiar from mid-century debates on obscenity law.⁷⁷ In his 1868 Hicklin judgement, for example, Lord Cockburn compared the unfettered circulation of dangerous books to the carrying of a diseased child through a public space, both actions endangering public health regardless of intention.⁷⁸ The book is figured as the metaphorical carrier of heterodox germs, the textual conveyor of dangerous and infectious ideas. This familiar trope of reading as disease was literalised by the *Lancet*, which, in 1890, issued a warning against 'the possibility of conveying infection by means of books lent out by circulating

Burt, "'An Immoderate Taste for Truth': Censoring History in Baudelaire's 'Les bijoux'," *Diacritics* 27.2 (1997).

⁷⁴ Cited in Coote, *Pernicious* 25, 26.

⁷⁵ Cited in *Hansard*, vol. 325 (8 May 1888): col. 1710.

⁷⁶ Cited in Coote, *Pernicious* 30.

⁷⁷ See Kelly J. May for how the rhetoric of disease was a powerful weapon in debates on the dangers of reading. Within this metaphor, the cultural arbiter—here, the journalist, as Mays looks at the debate as conducted in contemporary periodicals—is figured as doctor, in charge of the 'literary health' of the reading public ('The Disease of Reading and Victorian Periodicals,' *Literature in the Marketplace: Nineteenth-century British publishing and reading practices*, ed. John O. Jordan and Robert L. Patten (Cambridge: Cambridge UP, 1995) 183).

⁷⁸ *Law Reports*, 3 Q.B.D., 1867-8, 371.

libraries.’⁷⁹ The book is transformed into a physical carrier of disease, and the library patron is exhorted to greater vigilance, ‘to guarantee the freedom of his household from infection at the time being, to report immediately the appearance of infectious disease, and to arrange for disinfection of books on loan to him.’ The householder is drawn into this surveillance network, the channel also, by which power infiltrates the domestic realm. In Nordau’s attack on Zola’s output, there is a further collapse: the book is no longer the vessel of transmission, metaphorical or literal, but is conflated with disease. The book itself is pathologised, becoming both symptom and product of the diseased or degenerate mind.

Concomitantly, both instances of censorship had a different target. In the Vizetelly trials, the salient factor judging by the media furore was Vizetelly’s role in rendering corrupting material accessible to the morally vulnerable segments of British society. Certainly, denunciations of the works as ‘mere and sheer obscenity, naked, shameless, and unutterably vile,’ here by *The Times*, representative, as one critic puts it, of nineteenth-century ‘establishment attitudes,’ are unavoidably an indictment of their French author.⁸⁰ However, it was Vizetelly’s infringement of the de facto censorship of the language barrier that was more directly under attack than Zola. Within the logics of Saunders’s variable obscenity, this seeming arbitrariness of response was not caprice nor hypocrisy, but a pragmatic form of social policing. In their original French, Zola’s novels did not pose a problem as access was confined to a bilingual minority, but in translation, their potential readership expanded dramatically and fuelled anxiety over the iniquity of, in the Solicitor-General’s words, ‘ministering to the depraved tastes of casual readers.’⁸¹

In addition to the exclusionary function of the French language, the concept of ‘the French’ also had ideological utility as a repository for national anxieties. French fiction, ‘properly styled “literature of prostitution,”’ according to one mid-century commentator, provided a permissible, because ideologically and geographically displaced, site for the channelling of prurient interests.⁸² The national

⁷⁹ ‘Public Libraries and Contagion,’ *Lancet* 24 May 1890: 1135.

⁸⁰ Michael Diamond, *Victorian Sensation: Or, the Spectacular, the Shocking and the Scandalous in Nineteenth-Century Britain* (London: Anthem, 2003) 2.

⁸¹ Cited in Coote, *Pernicious* 17.

⁸² George Brimley, ‘The Angel in the House,’ *Essays*, ed. William George Clark (Cambridge, 1858) 233.

prejudices expressed by W. R. Greg, although some twenty years prior to the Vizetelly affair, still resonated at the end of the century. Success in the French literary field belongs to those who 'pander to the worst passions and the worst taste; till, without exaggeration, it is as rare to find a successful French novel that is not scandalous as an English that is.'⁸³ Differences in national literatures are attributed to differences in national temperament: the French psyche, brutalised by centuries of political turmoil and violence, increasingly and insatiably craves sensation, while English moral rectitude informs its decorous literary tradition. Greg attacks examples of licentious French fiction, ostentatiously refraining from citational infractions, since 'quotations are of course impossible,' yet describing second-hand and at length 'stories of a lover torturing his devoted and sensitive mistress to death by a series of ingenious insults, outrageous suspicions, cruel and exacting caprices, [and] refined brutality.'⁸⁴ For those who would condemn as for those with more subversive intent (as I will demonstrate below in my discussion of Beardsley), the channelling of obscenity into national or linguistic bounds offers an acceptable way of engaging with the obscene.⁸⁵

If the ostensible issue was the problem of accessibility, underlying this concern were certain assumptions about the process of reading and the power of the text. The *Times* asserts unreservedly that 'assuredly most people will agree that the publication of cheap translations of the worst of Zola's novels is a grave offence against public morals, and that it is a good thing that the law should be invoked to restrain it.'⁸⁶ Yet this warning against their pernicious effect on the unsuspecting and the susceptible might also be read as a recognition of and even a concession to the corrupting power of books. The text, and by extension, the author and translator, are imputed an agency of sorts: the power to effect degeneration. A similar aggrandisement of 'immoral literature' is evident in its demonisation as 'a menace to our religious, social, and national life' by the National Vigilance Association in the

⁸³ W. R. Greg, 'French Fiction: The Lowest Deep,' *Literary and Social Judgements* (London, 1868) 178.

⁸⁴ Greg 194, 211.

⁸⁵ Thus, for instance, it has been argued that Oscar Wilde's decision to write *Salome* in French, the Beardsley illustrations of which I discuss below, was in part an attempt to circumvent the censorious prohibition against the presentation of biblical subjects on stage, albeit an attempt that, 'against reasonable expectation ... misfired' (Kerry Powell, *Oscar Wilde and the theatre of the 1890s* (Cambridge: Cambridge UP, 1990) 37).

attempt to galvanise an apathetic public.⁸⁷ But by far the most extreme articulation of these fears and the corresponding empowerment of the written word were expressed in the 1888 Parliamentary Debate on Corrupt Literature, an indiscriminate collection of disparate forms, including 'French romantic literature,' penny dreadfuls, immoral advertisements, and divorce court journalism, if undealt with, would render invincible the 'threatening clouds of revolution.'⁸⁸ The image of impending deluge emphasises the urgency of the combative task, but also invokes familiar fears of Jacobinism in line with the Continental provenance of transgressive fiction.

By contrast, Nordau viewed these works not as instigators but as indicators of depravity and his aim was not punitive but pathologising. Degenerate authors are construed as 'necessary subjects for medical treatment' (27), a construal that at once emphasises their passivity and impotence while reinforcing Nordau's authority as medical practitioner. Their works are therefore merely 'confessions' (476) of a morbid sensibility and as such, are co-opted into Nordau's all-encompassing medicalising framework. Whereas in the context of corruptible youth, the offending books were placed within a framework of causality as origin of or impetus for corruption, for Nordau, causality inheres in the very conditions of modernity. The problem book and the problem author lose the revolutionary power imputed them in the Parliamentary Debate and become merely symptoms of a greater social ill.

This reversal provides a significant counterpoint to Foucault's emphasis on the inextricable relation between authorship and censorship. In his account, the emergence of authorship as 'a privileged moment of individualization in the history of ideas, knowledge, and literature' was a response to the problem of transgressive

⁸⁶ Cited in Coote, *Pernicious* 19.

⁸⁷ Coote, *Pernicious* 3.

⁸⁸ *Hansard*, vol. 325 (8 May 1888): col. 1719, 1718.

The association between political radicalism and obscenity was not entirely spurious scare-mongering. In the early part of the century, pornography and incendiary politics overlapped in the publishing underground. According to Iain McCalman, the 'trade crisis' in radical publishing in the 1820s, together with the increased demand for pornography, saw many radical pressmen move into this lucrative industry, for which they were eminently suited, having developed sophisticated evasive tactics in their publishing practices (214-5). There were also continuities between pornography and the bawdy satire of the radical booktrade, as for example, the underlying populism in pornography and the depictions of upper-class vice (221).

The connections between the literary and the political were still present if only in the rhetoric of late-century cultural polemics. Hugh E. M. Stutfield, for example, asserts that the 'unbridled licentiousness of your literary decadent has its counterpart in the violence of the political anarchist.

writing, to the need to trace culpability of offending words to a locatable, and importantly, prosecutable, source.⁸⁹ He thus states:

It is important to notice, as well, that [the text's] status as property is historically secondary to the penal code controlling its appropriation. Speeches and books were assigned real authors, other than mythical or important religious figures, only when the author became subject to punishment and to the extent that his discourse was considered transgressive.⁹⁰

In contrast to standard accounts locating authorship within the narrative of copyright and intellectual property, Foucault places it historically in the context of censorship, a contention that has been much challenged.⁹¹ Roger Chartier argues that it was as much the publisher, the distributor, the bookseller, and the reader, as the author who were held responsible for the perpetuation of heterodox views, with the consequence that the material production, dissemination and consumption of offending material were conflated with its expression on the matter of culpability.⁹² Robert J. Griffin, examining the history of regulatory practices in England, questions the accuracy of placing such centrality on the name of the author in censorship procedures. For the greater part of that history, he claims, the law did not require the inclusion of the author's name on publications.⁹³ Specific examples also show that the notion of

Each is the *alter ego*-maniac of the other. The one works with the quill, the other with the bomb' ('Tommyrotics,' *Blackwood's Magazine* 157 (1895): 841).

⁸⁹ Michel Foucault, 'What is an Author?' *Language, Counter-Memory, Practice: Selected Essays and Interviews by Michel Foucault*, ed. Donald Bouchard, trans. Donald Bouchard and Sherry Simon (Ithaca: Cornell UP, 1977) 115. It is interesting to note that what Foucault observes here as historical phenomenon—the designation of culpability in a single source to facilitate prosecution—Butler critiques as current practice, as discussed in Chapter One.

⁹⁰ Foucault, 'Author' 124.

⁹¹ See for instance, Mark Rose, for whom the emergence of the author is inseparable from the commodification of print (*Authors and Owners: The Invention of Copyright* (Cambridge, Massachusetts: Harvard UP, 1993). In her studies of early modern censorship, Clegg argues that while the licensing system was sometimes used to counter dissent, the Stationers' Company's primary function was to protect its trade monopoly by ensuring property rights (14-25).

⁹² Roger Chartier, *The Order of Books: Readers, Authors, and Libraries in Europe between the Fourteenth and Eighteenth Centuries*, trans. Lydia G. Cochrane (Cambridge: Polity, 1994) 50. Chartier's study refers to France, but his argument is equally relevant across the channel. For example, in the 1579 case of the seditious *The Discovery of A Gaping Gulf*, both author and distributor met with identical reprisals—the loss of their right hands (Clegg 123). Indeed, even in the two cases I discuss, it was Vizetelly the translator and publisher, and Bedborough the vendor, who were charged with obscene libel.

⁹³ Referring to the period between the Star Chamber Decree of 1637 until the Licensing Act of 1662, he maintains that '[s]ince the sixteenth century when the regulation of printing began, there has been only a brief period of roughly twenty years when the laws of England required the name of the author to be printed on the title page of a book or pamphlet' (Robert J. Griffin, 'Anonymity and Authorship,'

authorial authority, rather than being the third-party designations of guilt and reprisal in Foucault's schema, was also pursued by the writer himself. Authorship in this context forges a privileged space as bastion against economic, political and social pressures. Ben Jonson, for example, in response to the constraints of the patronage system and the entertainment demands of the commercial theatregoer, repeatedly asserted his superiority as author and critic.⁹⁴ At the same time this perception of authorship as empowerment points to the ambivalent existence of the writer: that which confers or constitutes agency also enables regulation. Authorship, predicated on public recognition, is inextricably bound up with pre-existing institutional and social structures, and the author, inserted into these relations, is to some extent dependent on and subordinate to these structures.

In Nordau, there is an inversion of the process described by Foucault. The early modern censor attributes sovereignty to the author in the process of apportioning responsibility and blame. By contrast, the discourse of degeneration censors, or attempts to censor, by depriving the author of agency. By constructing the author as a passive carrier of disease, any protestation by the author is designated a priori the ravings of a madman, the mere symptoms of a pathological disorder. Nordau's treatment of the degenerate's following is equally ruthless. Where the author is degenerate, his acolytes are hysterics whose 'irresistible passion for imitation' condemns them to a blind and slavish adherence to fashion (26). As far as the genuinely afflicted are concerned, they are oblivious to their condition and hence cannot be accused of intentional transgression. '[A]ll the participants are sincere,' Nordau proclaims, 'the founder as well as the disciples. They act as, in consequence of the diseased constitution of their brain and nervous system, they are compelled to act' (31). For the same reason, Nordau is somewhat hesitant of adopting the Morelian term 'stigmata,' for him, 'an unfortunate term derived from a false idea, as if degeneracy were necessarily the consequence of a fault, and the indication of it a

New Literary History 30.4 (1999): 887). Foucault, Griffin further alleges, 'provides no evidence [for his claim that 'literary' texts were largely anonymous in the Middle Ages] but his own authority' (877).

⁹⁴ Joseph Loewenstein claims that in the latter part of his career, Jonson rejected the literary marketplace in favour of 'a neoconservative patronage market' but one that preserved the autonomy and rights of the writer ('The Script in the Marketplace,' *Representations* 12 (1985): 108). See also Loewenstein, *Ben Jonson and Possessive Authorship* (Cambridge: Cambridge UP, 2002); and Richard

punishment' (17). Thus, Zola's predilection for olfactory description—the 'unhealthy predominance of the sensations of smell in his consciousness' (502)—is presented, not as novelistic technique nor as deliberate recalcitrance, but as an unwitting but no less unequivocal manifestation of degeneracy. This is a hierarchy of sensation for which Nordau offers physiological explanations. In the normal subject, he claims, the olfactory lobe is anatomically subordinate to the frontal lobe, the site of 'higher and complex mental activity' (503). In the degenerate subject, the olfactory disproportionately dominates the frontal lobe, incapacitating his ability to engage with abstract ideas, an intellectual ability that is necessary for apprehending 'moral beauty' (503). This condition is an atavism, a retrogression 'not only to the primeval period of man, but infinitely more remote still, to an epoch anterior to man,' to the bestial (503). *Degeneration* abounds with such examples: a textual feature (here, Zola's olfactory descriptions) is conflated with a personal trait (an excessive sensitivity to smell), while the aetiology of this condition is traced to a physiological syndrome (the asymmetric development of the lobes), and in a further extrapolation, disordered physiology perverts the moral sense. Nordau's literary diagnostics thus extend beyond textual criticism to include in its analytic compass the writer/patient, his social milieu, and the temporal scope of the evolutionary spectrum.

Nordau's *Degeneration* and the Vizetelly trials are thus two forms of censorship, in effect, two totalising discourses, that of obscenity in the one and degeneration in the other. Both forms of censorship stem from similar cultural anxieties and both take Zola's novels as their central problem. Yet despite this apparent consonance, they differed in operation, rationale, and immediate target, the former focusing on Vizetelly the publisher, the latter on Zola the author. On the one hand, there is a legal discourse of acts, backed by legislative firepower and constabulary manpower. The chief concern is what the book does, and within the disease metaphor, it transmits, it infects, and it contaminates. On the other hand, the pathologising discourses of medicine are less interested in the repertoire of acts than in the ontology of text. The book *is* disease, *is* infection; it does not just contaminate,

Burt, *Licensed by Authority: Ben Jonson and the Discourses of Censorship* (Ithaca: Cornell UP, 1993).

it *is* contamination.⁹⁵ This constitutive disparity was an undercurrent to the more visible conflicts between literature and the law, and science and literature, erupting only at the point where Nordau openly questions the policing autonomy of the law. '[T]he pornographist must be branded with infamy,' he asserts unequivocally, 'But the punitive sentence of a judge does not with certainty have this effect' (558). The efficacy of legal prohibition is compromised when its enforcers are governed by the 'insupportable arrogance of administrations' (558). However, for the most part, Nordau is less involved in overt medico-legal territorial disputes than in promoting the superiority and duties of 'cultivated and moral men' (558).

In legal discourse then, obscenity precedes degeneration as its cause. In Nordau's account, obscenity is subsumed under degeneration, a symptomatic subset alongside, for example, amoralism or synaesthesia. This difference was more than an idiosyncratic rearrangement of terms. These syntactical permutations express fundamental differences in the ways in which the problem of offensive literature was conceptualised and solutions were proffered. Legislative measures put in place a system of quarantine, separating book from the morally vulnerable. In medicalising discourse, obscene literature is disabled by refusing it status as legitimate and coherent articulation. It becomes meaningful only within the logicising narrative of disease and diagnosis. In fact, obscenity as a discursive category is virtually eradicated, insofar as it is itself pathologised, as corprolalia, morbid eroticism, or sexual psychopathy, for instance. The problematic category of obscenity, the definition of which had been so elusive and much disputed, was now transformed into a host of medical disorders, a move which, in theory, enthroned the medical professional as medico-cultural arbiter supreme. Yet as I will show in the next section, this supremacy was a tenuous one, suggesting that the agency of the censor, however powerful in a particular denunciatory moment, can only be provisional.

The Censor Censored

Responses to *Degeneration* and counterattacks on Nordau show that Nordau's position within the discourse of degeneration is equivocal at best and bring out the

⁹⁵ This medicalising turn is akin to the shift Foucault observes in the transformation of sodomy as

complexities of censorship not adequately accounted for by conventional models. Nordau has been variously described as spokesman for the bourgeoisie and quack, Victorian positivist and madman, and even today, there is still no critical consensus on his position.⁹⁶ Despite being lauded in some circles as 'a new prophet' of degeneration, because of his investment in this discursive economy, Nordau is as much implicated in the discourse of degeneration as the objects of his pathologising gaze.⁹⁷ Even while he mobilises degenerationist discourse in his assault on the literary vagaries of pseudo-genius, he is himself subject to a similarly pathologising attack. Such refutations were particularly vigorous in professional circles in Britain and the United States which were generally less receptive to degeneration theory in comparison to their Continental peers.⁹⁸

Thus, Bernard Shaw condemns Nordau as 'a doctor who had written manifest nonsense,' his magnum opus a collection of 'all the exploded bogey-criticisms of the last half-century.'⁹⁹ William James offers a similarly damning assessment, labelling *Degeneration* a 'pathological book on a pathological subject' and its author 'a victim

transgressive act to the homosexual as species (*History of Sexuality* 43).

⁹⁶ George L. Mosse, for example, sees Nordau as an exemplar of his age, his pronouncements representing 'the beliefs and hopes which characterized so many of his class, profession and generation,' albeit that his expressions of foreboding are a somewhat extreme articulation of the then current social anxieties ('Max Nordau, Liberalism and the New Jew,' *Journal of Contemporary History* 27.4 (1992): 565). Steven E. Aschheim seeks to retrieve Nordau from summary dismissal as a historical oddity, contextualising his thought within the framework of Enlightenment rationalism, even while conceding Nordau's myopic and uncompromising adherence to positivistic conventions ('Max Nordau, Friedrich Nietzsche and Degeneration,' *Journal of Contemporary History* 28.4 (2003): 652). Mosse and Aschheim, however, are the exception amongst modern critics, the majority of whom are more dismissive. Echoing Nordau's nineteenth-century detractors, such critics typically point to the ways in which Nordau's own polemical practice exhibits the pathological traits he so vigorously condemns. Sandra Siegel identifies in Nordau a 'phobia about chaos that quickly became a mania for ordering' (207), while for Greenslade, *Degeneration* may be seen as 'the last positivistic epic—or to put it less charitably—as positivism run mad' ('Literature and Decadence: The Representation of "Decadence," *Degeneration: The Dark Side of Progress*, ed. J. Edward Chamberlin and Sander L. Gilman (New York: Columbia UP, 1985) 121).

⁹⁷ Stutfield 833.

⁹⁸ This ambivalence has been attributed to the strong British liberal tradition of individual rights, the consequence of which was a noticeable reluctance on the part of the medical profession and the administration to adopt more controversial ideas into official policy-making (Pick 177). This is not to deny the pervasive presence of the concept of degeneration in cultural conversation. The key issue here is that degenerationist discourse informed much discussion but had limited official status. As Pick points out, several experts and commentators, Havelock Ellis amongst them, deplored the lack of familiarity with the work of say, Lombroso, on the part of their colleagues, as well as what they saw more generally as the complacency of their compatriots (178).

⁹⁹ Bernard Shaw, *The Sanity of Art: An Exposure of the Current Nonsense about Artists being Degenerate* (London: Constable, 1911) 7, 18.

of insane delusions.’¹⁰⁰ Another critic denounces Nordau’s work as ‘pseudo-scientific humbug,’ offending both in its misappropriation and sensationalising of a properly biological term.¹⁰¹ These thrusts and counter-thrusts are another instance of censorship as delegitimation. Nevertheless, that Nordau’s publication had a tenacious hold on the public imagination is undeniable, as is attested by the fact that it ran to seven impressions in Britain alone by the end of 1895.¹⁰² As Pick points out, Nordau might be charged with charlatanism, but ‘nonetheless charlatanism deemed significant enough to merit refutation.’¹⁰³

That discourse exceeds the control of the individual, even one retrospectively crowned the ‘high priest of the creed of degeneration,’ is evident in counter-appropriations of the concept.¹⁰⁴ Grant Allen, ‘leading luminary of English cultural anarchism,’ as a nineteenth-century detractor describes him, dislodges simplistic binaries of censor and censored, conservative and radical, in his exploitation of the politically and culturally charged term.¹⁰⁵ If degenerationist discourse is appropriated by reactionary commentators as cultural jeremiad against transgressive figures (see examples in note 66), Allen uses an identical critical discourse to describe these conservative ascetics and prudes. It is not the Swinburnes or the Hardys who are regressive, according to Allen, but those who would accuse them of being so. Christianity is an atavistic cult, ‘a religion of Oriental fanatics, at a lower grade of civilisation,’ and in a blasphemous reversal, the term ‘decadence’ is used to describe not hedonism, but orthodox Christianity.¹⁰⁶ That degenerationist discourse can be co-opted into vastly different agendas is not surprising, given the protean ease with which it permeates disciplinary borders.

But perhaps as inimical to Nordau’s censoring project is the instability of language itself. It is in this respect that Nordau’s interpretive practice bears striking resemblance to courtroom textual interrogations. Both invoke conservative readings, not just in their indictment of offensive subject matter, but in the allegiance to univocal meaning. For the diagnostician Nordau, text becomes legible only as

¹⁰⁰ William James, ‘Degeneration and Genius,’ *Psychological Review* 2 (1895): 289.

¹⁰¹ ‘Notices of New Books,’ *Philosophical Review* 5.4 (1896): 436.

¹⁰² Siegel 206.

¹⁰³ Pick 25.

¹⁰⁴ Greenslade, *Degeneration* 120.

¹⁰⁵ Stutfield 839; Grant Allen, ‘The New Hedonism,’ *Fortnightly Review* 55 (1894).

symptoms of degeneration. For the prosecutor, text becomes indictable only as obscenity. The precision involved in the isolating of symptoms and the proving of textual obscenity are equally antithetical to indeterminacy.¹⁰⁷ Hans Robert Jauss' comments on the 1857 *Madame Bovary* trial in France, supplemented by Dominick LaCapra's later study, are instructive. Jauss claims that *Madame Bovary* was a transgressive text, 'break[ing] through the familiar horizon of literary expectations' not only in its thematic flouting of social and religious mores, but more significantly, in its challenge to the interpretative conventions of judicial hermeneutics.¹⁰⁸ The prosecution claimed that the novel was immoral in its depiction of Emma Bovary's extramarital vagaries yet the novel operates to undermine the foundations on which such judgements can be made. Its narratological irregularities, the use of free indirect style and multiple shifting perspectives, for instance, preclude the fixing of a stable position from which to judge the characters and narrative.¹⁰⁹ The novel is in fact highly unsettling in its refusal to provide any moral guidance insofar as its narrative indeterminacy can be read neither as denunciation nor as endorsement.

While Zola's novels were not on trial in the same manner as Flaubert's—the obscenity of the texts was not in dispute, given Vizetelly's guilty plea—a similar equivocality in Zola's narration is discernible.¹¹⁰ The shifts from extradiegetic to diegetic commentary are frequently obscure and difficult to delineate and the use of free indirect discourse, like that identified by Jauss and LaCapra in Flaubert, renders the attribution of narrative agency almost impossible at times.¹¹¹ This was troubling

¹⁰⁶ Allen, 'New Hedonism' 390.

¹⁰⁷ In the 1888 Parliamentary Debate on Corrupt Literature, the Home Secretary noted that the issue at hand was how best to define 'the strait and narrow line which divided what was punishable, criminal, and obscene within the meaning of the law, and what was merely indelicate and coarse' (*Hansard*, vol. 325 (8 May 1888): col. 1719).

¹⁰⁸ Hans Robert Jauss, *Towards an Aesthetic of Reception*, trans. Timothy Bahti (Brighton, Sussex: Harvester, 1982) 26, 42-4.

¹⁰⁹ As LaCapra suggests, Flaubert's writing is particularly radical in that it is 'language writing or speaking itself but not emanating from a secure or fixed source and not communicating a precise message or evaluative position with relation to characters and events' (Dominick LaCapra, *Madame Bovary on Trial* (Ithaca: Cornell UP, 1982) 147).

¹¹⁰ For a discussion of the use of free indirect discourse in *l'Assommoir*, see Chaitin.

¹¹¹ The subtle shifts in narration in the following passage from *Nana* are typical of this disconcerting instability:

The poor ladies were complaining that they didn't know more than fifty of the guests. Where had all these people come from? There were girls in low-cut dresses flaunting their bare shoulders. One woman had stuck a gold dagger into her chignon, while her jet-bead embroidery made her look as if she was wearing a coat of mail. Another woman was in such a shameless skin-tight skirt that people were following her progress with amused smiles. In

to the nineteenth-century reader, for the absence of explicit authorial condemnation was perceived as a dereliction of moral duty. For one critic, it is the 'gloat[ing] on ... secret and nameless iniquities' that offends, while for another, it is the glorification of impassivity, the belief that 'the author must completely efface himself, become a mere phonograph or photographic plate.'¹¹² Such critics share Nordau's commitment to univocality, and Nordau's hostility is nowhere more evident than in his virulent condemnation of the pun. George Mosse suggests that for Nordau, 'meaning, not sound, determines the nature of words,' but as Jonathan Culler observes, puns, as the play of phonemes, underscore the radical instability and mutability of meaning.¹¹³ For Nordau, the 'unbridled association of ideas' characteristic of the mystic degenerate is replicated at a linguistic level, in the 'unbridled' homonymic associations of punning, a 'peculiarity of graphomaniacs and imbeciles' (*Degeneration* 481, 65, 182). Within Nordau's degenerationist paradigms, such linguistic abuse is a degenerate use of language, a violation or distortion of its governing conventions that constitutes degeneracy in the Morelian sense of a 'morbid deviation from an original type.' Read alternatively, the pun subverts linguistic transparency by disrupting the correspondence between language and its referent: its phonic quality exceeds the control of the utterer, just as Nordau's authority is challenged at the point where 'degeneration' exceeds his discursive control. The sovereign confidence with which Nordau presents his project is thus proved illusory, both at the level of praxis and of language.

this smart, permissive society dedicated purely to pleasure, full of people whom a society hostess would pick up in the course of some short-lived intimacy, where a duke rubbed shoulders with a crook, the opulence of this last ball of the season was blatant; people wanted one thing only: to have fun. And as the dancers performed the symmetrical figures of the quadrille in time to the music, the overcrowded rooms were becoming hotter and hotter. (Émile Zola, *Nana*, trans. Douglas Parmée (1880; Oxford: Oxford UP, 1992) 360).

The cavilling observations through the perspective and voices of Madame Du Joncqouy and Madame Chantereau give way to perceptive commentary and a succinct assessment that suggest a narratorial distancing, before a shift at the end of the paragraph to pure description.

¹¹² A. Lang, 'Émile Zola,' *Fortnightly Review* 31 (1882): 439-52, 452; Lecky 359.

¹¹³ George L. Mosse, 'Max Nordau and his Degeneration,' introduction, *Degeneration*, by Max Nordau, (1895; Lincoln: U of Nebraska P, 1993) xxiv.

Puns, Culler writes, 'present the disquieting spectacle of a functioning of language where boundaries—between sound and letter, between meanings—count for less than one might imagine and where supposedly discrete meanings threaten to sink into fluid subterranean signifieds too undefinable to call concept' ('The Call of the Phoneme,' introduction, *On Puns: The Foundation of Letters*, ed. Culler (Oxford: Blackwell, 1988) 3).

Judith Butler warns against imputing sovereign subjectivity to a figure designated 'censor,' but as is evident from the counterattacks on Nordau, his authority was not unshakable nor his theory unassailable. Nordau's aim was to unmask the aesthetic pretensions of his degenerate subjects, to which revelation the response of a healthy and 'respectable' public would be aversion, which in turn leads to the debarring of such delirium from the public domain. Censorship at the level of subject constitution thus entails censorship in more material terms in the form of rejection and exclusion; however, this sequence is merely Nordau's optimistic delineation. While Nordau recognises the role of the market in fuelling the imitative frenzy of the degenerate's following, he does not foresee the extent to which his medical revelations are themselves complicit in this excitatory network. In the final section of this chapter, I turn to Aubrey Beardsley's graphic art and the significance of his pictorial use of French novels, including those of Zola, to show that censorship paradoxically provides the discursive context through which proscribed topics might be broached.

The Post-Trial Circulation of 'Zola'

Earlier in this chapter, I claimed that censorship in its various forms becomes a site of discursive production. *Pernicious Literature*, a propagandistic pamphlet published after the Vizetelly trial by the National Vigilance Association, had the professed aim of 'rous[ing] the manhood of England to action,' of counteracting the 'dreadful havoc which is being caused by the dissemination of this vile stuff.'¹¹⁴ The inclusion of the parliamentary debate on corrupt literature, an account of the trial proceedings, and selections from press reports and correspondence, while strategically intended to incite public indignation, is also proof of the censoring body's own role in this discursive escalation. As discussed above, Nordau's *Degeneration* likewise spawned its own spiralling polemical exchanges. But censorship is also productive in the new forms and possibilities of articulation it creates: censorship inaugurates its own

¹¹⁴ Coote, *Pernicious* 3.

discourse, generating a distinctive vocabulary with its own signifiers of transgression.

The denunciations of Zola have an interesting if indirect symbolic afterlife in illustrations by the graphic artist Aubrey Beardsley, in which the name 'Zola' becomes a signifier whose meaning is overdetermined by these events. Beardsley's drawings make frequent use of the trope of the reader as does the one under consideration, *The Toilet of Salome*. This illustration for the 1894 publication in English of Oscar Wilde's controversial *Salome* features a portrayal of the protagonist in modern attire attended by a barber, with, in the foreground, a collection of books, including Abbé Provost's *Manon Lescaut*, Verlaine's *Les Fêtes galantes*, Apuleius' *The Golden Ass*, one simply entitled Marquis de Sade, and Zola's *Nana*. This was in fact, a second version of the illustration, the original having been rejected by publisher John Lane and 'his unofficial censorship board.'¹¹⁵ The offending features of the first attempt are easily discernible, for in addition to the explicit depiction of both Salome and a page in the act of masturbation, the illustration is replete with less overt but for the nineteenth-century viewer, no less decipherable, signifiers of depravity. Both the viol and the mirror, for instance, are symbols of masturbation, as is the bent spine of the seated page.¹¹⁶ Like the second version, there is on display a selection of controversial volumes, amongst which are Zola's *La Terre* and Baudelaire's *Les Fleurs du Mal*, both the subject of obscenity prosecutions, the former in England and the latter in France.

Despite compliance with Lane's censorious precautions in the later picture, the proscribed representations of the original have been expunged only in their most overt articulations. Beardsley retains the more permissible tropes of transgressive

¹¹⁵ Stephen Calloway, *Aubrey Beardsley* (London: V & A, 1998) 76. In addition to this problematic design, two other pictures in *Salome* underwent similar negotiation (Linda Gertner Zatlin, *Beardsley, Japonisme, and the Perversion of the Victorian Ideal* (Cambridge: Cambridge UP, 1997) 109). On another occasion, the cover design for the first number of *The Savoy* was expurgated at the behest of the litigiously alert Leonard Smithers, who was, not surprisingly, wary of the depiction of the figure of a putto urinating on a copy of *The Yellow Book* (Calloway 153). On Beardsley's part, this was presumably a defiant if somewhat puerile gesture in response to his dismissal from *The Yellow Book* following the Wilde debacle in 1895. Beardsley's fictional work also met with unofficial censorious opposition. *The Story of Venus and Tannhäuser*, published in expurgated form as *Under the Hill* in the *Savoy* and later by Lane, was not available unexpurgated until the 1907 Smithers' edition for private circulation (R. K. R. Thornton, *The Decadent Dilemma* (London: Arnold, 1983) 179).

¹¹⁶ Allison Pease, *Modernism, Mass Culture, and the Aesthetics of Obscenity* (Cambridge: Cambridge UP, 2000) 102; Calloway 77.

behaviour, in particular, the largely Gallic and wholly lascivious collection of books. The languid narcissism of Salome's posture before the mirror and the blatantly positioned hand might have been purged to the wary publisher's satisfaction, but the viewer is still left with the suggestive solipsism of the decadent reader, her hedonistic self-absorption heightened by the hovering, servile hands of the attendant.¹¹⁷ Zola's prominence on the bookshelf is significant. For while the material circulation of Zola's books has been curtailed by judicial force, the symbolic circulation of 'Zola' and his transgressive oeuvre persists in a manner that exceeds legal prohibition.¹¹⁸ As is evident in the two versions of *The Toilet*, the titles of the books, including those of Zola's, are themselves symbols of vice and suggest in a less direct manner the mechanistic acts of solitary pleasure. Zola, despite his works not being accessible to the English-speaking public, or perhaps because of his works' inaccessibility, has come to signify debauchery and corruption, and the irony of Beardsley's devious and suggestive use of 'Zola' shows how censorship participates in complex exchanges. The name of an author whose works are censored at one time is adroitly manipulated on a subsequent occasion into a coded expression of a social taboo, thus evading the

¹¹⁷ Thomas Laqueur argues that masturbation was perceived as a social problem in the eighteenth and nineteenth centuries not because of any belief in inherent physical or moral harm, but because it was a solitary and therefore asocial practice ('The Social Evil, the Solitary Vice and Pouring Tea,' *Fragments for a History of the Human Body*, part three, ed. Michel Feher, Ramona Naddaff, and Nadia Tazi (New York: Urzone, 1989) 336). The introversion of solitary reading might also be construed as a withdrawal from the social. Commenting on the shift from the respectable popularity of the three-decker to the new slim-line, Beardsley-illustrated *fin de siècle* volume, Elaine Showalter writes: 'Unsuitable for family consumption, these books were more likely to be read alone and perhaps even under the covers. Sex and the single book became the order of the day' (*Sexual Anarchy: Gender and Culture in the Fin de Siècle* (London: Bloomsbury, 1990) 16). Beardsley's association with the newly popular 'single book' thus places him at the nexus of concerns over (female) sexuality, solitary reading, and the economic transactions of the book industry. For Foucault, the masturbation panic was the channel through which power reached into the family unit, producing this childhood 'vice' not so much as 'the evil to be eliminated' for this task was bound to failure, but as the means of multiplying and advancing its hold (*History of Sexuality* 42).

Pease also suggests that Salome's modern dress is a deliberate invocation of the decadent New Woman, its topicality and propinquity heightening the irony of sanctioning a drawing that is arguably as inflammatory as the one replaced (93). For discussion of the gender and sexual dynamics in Beardsley's work, see Linda Gertner Zatlín, *Aubrey Beardsley and Victorian Sexual Politics* (Oxford: Clarendon, 1990).

¹¹⁸ David Baguley notes that this mythologising of Zola as social and political dissident was contrary to his own (and his associates') conception of himself, contradicting 'the reality of the retiring, sedentary, kindly, sensitive, and nervous bourgeois writer' ('Zola and His Critics,' introduction, *Critical Essays on Emile Zola*, ed. Baguley (Boston: Hall, 1986) 2). On the other hand, Dorothy Speirs claims that Zola was adept at manipulating the opportunities for self-publicising in the press. ('Zola Meets the Press,' *Emile Zola Centenary Colloquium 1893-1993* (London: Emile Zola Society, 1995) 15). These multiple perceptions of Zola underline the highly unstable and appropriable nature of the author's name for all parties, including the author himself.

censor's blue pencil in a metonymic sleight-of-hand. Not only are efforts to dismiss the works of Zola as depraved articulations not disputed, they are embraced by Beardsley in a new signifying system.

Both Vizetelly's prosecution and Nordau's pathologisation of Zola were attempts to suppress specific authors and texts, but at the same time, both participated in a greater cultural field in which their denunciations were open to appropriation and re-inscription.¹¹⁹ These acts of censorship, whether explicit or implicit, were also embroiled in the dynamics of the marketplace and thus complicit with the transformative process by which transgression is converted into economic capital. If censorship is the control of meaning, then the significance of the condemned text as marketable transgression reveals that censoring technologies, whether legislative measures or medicalising strategies, cannot retain sole control over discursive production. Such discursive struggle brings to mind a verbal exchange during the first Vizetelly trial, in which the defence counsel, Mr. Williams, referring to the novels as 'works of a great French author,' elicited the following nomenclatural dispute:

The Solicitor-General.—A voluminous French author.

The Recorder.—A popular French author.

Mr. Williams.—Of an author who ranks high among the literary men of France.¹²⁰

¹¹⁹ A comparable use of *Degeneration* as an evasive signifying system can be seen in the reporting of the 1885 Wilde trials, in which references to degeneration, and to a lesser degree, to Nordau, were frequent. The editor of *Reynolds'*, for instance, condemned Wilde's work as 'the most diseased products of a diseased time,' intoning against 'its morbidity, its cold heartless brilliance, its insolent cynicism, its hatred of all rational restraint, its suggestiveness,' while directly referring to Nordau's 'dissect[ion of] Wilde's absurdities' (cited in Ed Cohen, *Talk on the Wilde Side: Toward a Genealogy of a Discourse on Male Sexualities* (New York: Routledge, 1993) 255). On one level, Nordau's theory of degeneration provided the narrative touchstones by which the events in court could be emplotted as, and explained by, the familiar account of a morbid modernity. On another, the physiological hermeneutics popularised by Nordau allowed the literally unspeakable acts of which Wilde was accused—the Marquess's allegation was represented in print as a textual gap: 'posing as ---'—to be verbalised within the bounds of permissible articulation. Cohen argues that 'somatic descriptions' of Wilde—his pose, attire, and physical appearance—metonymically suggested acts of sexual transgression (190). In the charting of the ravaging effects of the trial on Wilde, for example, physical decrepitude 'becomes both a metaphor for and the proof of the charges made against him' (193). The logic and vocabulary of degeneration theory thus provided a legitimate means by which the strictures of press decency might be circumvented and a sensitive topic brought to public discussion.

For further discussion of the Wilde trials, see Michael S. Foldy, *The Trials of Oscar Wilde: Deviance, Morality, and Late-Victorian Society* (New Haven: Yale UP, 1997); Alan Sinfield, *The Wilde Century: Effeminacy, Oscar Wilde and the Queer Movement* (New York: Columbia UP, 1994).

¹²⁰ Cited in Coote, *Pernicious* 18.

Censorship is a process by which the terms of discussion are negotiated and given provisional authority, but even for those who exercise state-sanctioned power, the associations and meanings generated by their activities exceed the constraints of such decrees. Here, the site of contestation is Zola himself. 'Zola' is variously a 'great,' a 'voluminous,' and a 'popular' author, these being only a few of his discursive designations. W. H. Gleadell, lauding Zola's tenacity, if not his 'literature of despair,' proclaims, 'Zola! Why the very name sounds like a challenge, a cry of attack, a shout of victory—clear and resonant like the notes of a clarion.'¹²¹ For this critic, the two syllables evoke the combative air of a victorious aggressor. Yet to another, 'Zola' could unequivocally signify corruption and degeneration, the 'obscene to the point of bestiality.'¹²² In the end, these censorships and counter-censorships serve not to cement meaning but to dislodge further the orderly linguistic regime of univocality.

The instability of signification and the volatility of meaning set adrift are also central to the subject of the next chapter, Havelock Ellis's *Sexual Inversion*. There, I will argue that censorship is the negotiation of meaning, not just in terms of the contents of Ellis's work, but also in terms of its disciplinary affiliations. At issue, at least for Ellis and his supporters, was whether medical science should be immune from prosecution, and if so, which defining qualities of science should ensure this immunity.

¹²¹ W. H. Gleadell, W. H. 'Zola and His Work,' *Westminster Review* 140 (1893): 615.

¹²² Cited in Coote, *Pernicious* 25.

Chapter 4

***Sexual Inversion* and the Question of Science**

If in the case of Zola, medicine and the law appeared largely to operate tangentially in their targeting of the author's works, any latent conflict was brought to the fore in the trial of George Bedborough for selling Havelock Ellis's *Sexual Inversion*. The tension between the legal and the medical was already evident in the Zola case where there was a more abstruse struggle beneath the overt contests between literature and the law, and literature and medical science. In the case of *Sexual Inversion*, Ellis's work was publicly and explicitly branded as 'lewd, wicked, bawdy, scandalous, and obscene,' accused by the Recorder Sir Charles Hill of being pornography masquerading as science.¹ The affair has been overwhelmingly presented, by those involved and by subsequent commentators, as a travesty against knowledge, a misapplication of law thwarting the progress of science. 'Are we going to tolerate this bureaucratic censorship over our scientific and reform literature?' asks Henry Seymour, taking over Bedborough's editorship of the *Adult* in the wake of the latter's legal travails.² Robert Buchanan, in a letter to the *London Star*, argues that 'to insult a man of science and to punish the unfortunate publisher for carrying out what is in point of fact a noble bit of work, done in the interests of suffering humanity, is more worthy of savages than of sane men living in the nineteenth century.'³ More recently, Geoffrey Robertson highlights the misuses of obscenity law against science, claiming that the fate of *Sexual Inversion* 'completed the legal edifice of Victorian

¹ Cited in George Astor Singer [pseud.], *Judicial Scandals and Errors* (Watford, 1899) 34.

² Henry Seymour, 'Editorial Memoranda,' *Adult* 2.10 (1898): 286.

³ Cited in Singer 285.

moral hypocrisy,' while Alec Craig berates the legal perversions which 'proved a fruitful source of injustice to individuals and of damage to science, literature and society.'⁴ Science, presented in terms of the open exchange and pursuit of knowledge, is pitted against the intractability of law, with Ellis the unwitting victim of an overzealous police force.

Censorship as a collision between law and science constructs a superficially simple model of attack and counter-attack: *Sexual Inversion* was conceived in part to counter legal injunctions against homosexuality; the law in turn publicly retaliated by labelling the study obscene and effecting its immediate suppression. However, this truncated account of censorship can be challenged on at least two counts. First, the presentation of Bedborough's capitulation as an incontestable victory for censorial forces forecloses any discussion of the consequences of the trial. The outcome of the confrontation between science and law is figured as resounding defeat—Ellis is the 'most distinguished victim' of obscenity law⁵—a defeat accorded a triumphal dignity in service of a greater emancipatory telos. Yet it was at the site of this struggle that discourses of legitimation were produced that had implications for how knowledge was formulated as a particular science and how it might address its audience. Second, this dichotomous model suggests a unidirectional censor-victim relationship that simplifies the cross-currents of censorship in its various forms. Ellis was not merely the target of punitive manoeuvres but was situated in a complex network of forces not easily contained by rigid binary delineations.

Just as the relationship between literature and the law had a more complex history, so too does that of law and medicine. In the first section below, I give a brief account of this uneasy relationship. In the second section, I look at the circumstances of *Sexual Inversion*'s creation and the plans for its defence to argue that the particular understanding of science thus generated had unforeseen implications for its autonomy. In the final section, I turn to the case-histories of *Sexual Inversion* to suggest that Ellis was himself complicit in a form of constitutive censorship by providing the form and language that made the articulation of homosexual subjectivity possible.

⁴ Robertson 32; Craig 44.

⁵ Craig 69.

Law and Medicine: an Uneasy Association

One way of theorising the interdisciplinary dispute between law and medicine is through Foucault's discussion of Pierre Rivière, whose 'dossier' depicts a 'rather strange contest, a confrontation, a power relation, a battle among discourses and through discourse.'⁶ The case centres on three conflicts: those between judiciary power and popular opinion, executive and legislative powers, and science and the judiciary.⁷ Most pertinent to my project is the last, for it is in the matter of criminal insanity that psychiatric expertise first encroached onto the domain of law. The concept of extenuating circumstances signalled the admission of alternative authorities into the court of law, moreover, ones that were to take precedence over legal adjudications. It was not a denial of criminality as such; indeed, criminality was readily acknowledged. Rather, it was an issue of priority, with medico-psychiatric assessment arrogating control over the subject's body. This was, in effect, the opening by which other social sciences entered the judicial domain, a process culminating in the pathologisation of criminality associated with Lombroso, ideas that were taken up and disseminated in England by Havelock Ellis.

While of theoretical significance, Foucault's observations are grounded in a different national context, and until the nineteenth century, substantial differences between English and Continental legal codes were reflected in medico-legal issues. Continental codes, deriving from Roman-canon law, adopted an inquisitorial approach, predicated on the meticulous gathering and examination of evidence. The legitimacy of the expert witness was assured in a system with statutory requirements for expert knowledge, specifying the oath to be taken by, professional qualifications of, and remuneration for, the witness.⁸ By contrast, the adversarial nature of English law meant that cases were determined by juridical consensus rather than the establishment of 'truth' itself. There was no formal stipulation of the medical witness's role in court and further, witnesses were at risk of hostile cross-

⁶ Michel Foucault, ed., *I, Pierre Rivière, having slaughtered my mother, my sister and my brother ... A Case of Parricide in the 19th Century* (1975; Harmondsworth: Penguin, 1978) x.

⁷ Foucault, *Rivière* 216.

⁸ Catherine Crawford, 'Legalizing Medicine: Early Modern Legal Systems and the Growth of Medico-Legal Knowledge,' *Legal Medicine in History*, ed. Michael Clark and Catherine Crawford (Cambridge: Cambridge UP, 1994); Joel Peter Eigen, *Witnessing Insanity: Madness and Mad-Doctors in the English Court* (New Haven: Yale UP, 1995) 112.

examination.⁹ Nonetheless, throughout the nineteenth century, the medical professional increasingly became a fixture in court, as expert witness in criminal trials, in matters of inheritance and legitimacy, and in the new fields of insurance and compensation.¹⁰

The nature of the relations between the two professions is disputed. Joel Peter Eigen claims that early in the century at least, there was 'no initial hostility from either bench or the prosecuting counsel' and the growing importance of medical testimony cannot thus be construed as a deliberate onslaught or a disciplinary usurpation.¹¹ Others, such as Tal Golan and Christopher Hamlin, argue that cross-boundary encounters in forensic science more generally called into question the nature of science itself even while pursuing its professionalising and expansionist project.¹² These divergent opinions suggest that law and medicine had a complex relationship that is not easily unravelled.

The nature of confrontation is different in the contexts of forensic medicine and the obscenity trial as well. In the former, the struggle can be understood as a jurisdictional one: in Pierre Rivière, it is a territorial contest over the site of his body, over precedence of definition. On the one hand, he is construed as juridical subject, as a parricide, and answerable to criminal justice; on the other, he is psychiatric subject within the pathologising logic of mental medicine. This model of definitional conflict pertains to the differences in how Nordau and how the court dealt with Zola's work. In the Bedborough trial, medicine stands in a different relation to the law, no longer expert witness but prosecutable object. Although it was Bedborough on trial for selling *Sexual Inversion*, the case rested on the a priori consensus, of the court at least, that the book was obscene libel and not medical exposition. Medical

⁹ Angus McLaren, *The Trials of Masculinity: Policing Sexual Boundaries, 1870-1930* (Chicago: U of Chicago P, 1997) 134-5; Eigen 113.

¹⁰ M. A. Crowther and Brenda M. White, 'Medicine, Property and the Law in Britain 1800-1914,' *The Historical Journal* 31.4 (1988).

¹¹ Eigen 160. Eigen claims that there was in fact a 'near-perfect fit of the interests of a rapidly evolving advocacy bar with the conceptually expanding realm of professed medical expertise' (133).

¹² Tal Golan, 'The History of Scientific Expert Testimony in the English Courtroom,' *Science in Context* 12.1 (1999); Christopher Hamlin, 'Scientific Method and Expert Witnessing: Victorian Perspectives on a Modern Problem,' *Social Studies of Science* 16.3 (1986). At issue was the incompatibility between adversarial procedure and scientific modes of proof, although a minority at the time claimed that rigorous cross-examination made the courtroom the ideal site for scientific progress. Also of concern was the ethical question of whether paid testimony was a contravention of scientific ideals.

science, in the form of its textual representative, *Sexual Inversion*, was from the start divested of the courtroom agency officially accorded the forensic witness, but this instance was merely one instalment in a more complex history of interaction.

Sexual Inversion and the Scientific Style

In 1898, George Bedborough, secretary of the Legitimation League, an organisation committed to legalising the position of illegitimate children, was arrested and charged with eleven counts of selling an obscene libel, among which was Ellis's *Sexual Inversion*. Ellis's supporters rallied to form the Free Press Defence Committee to contest the charge, but their efforts were thwarted by Bedborough's guilty plea. Arthur Calder-Marshall argues that the police were less concerned with claims of scientific immunity than with the anarchistic elements taking advantage of the open floor of League meetings. His contention is substantiated by detective John Sweeney's revelation that the Public Prosecutor had been looking for a way to combat 'Anarchistic proselytising' without violating civil liberties, since both the League and its publication were 'free from anything approaching scandalous behaviour.'¹³ The presence of *Sexual Inversion* in the League office was thus a chance to 'at one blow kill a growing evil in the shape of a vigorous campaign of free love and Anarchism, and at the same time, discover the means by which the country was being flooded with books of the "Psychology" type.'¹⁴ If an anti-aristocratic pornography had been harnessed by political radicals to attack the establishment in the late-eighteenth and early-nineteenth centuries, almost a century later, the establishment adopted a similar tactic by using the 'pornography' of Ellis's work to target political radicalism.¹⁵

While of incidental importance to the police operation, the issue of the autonomy of science—who has authority to define it, who has authority within its

¹³ John Sweeney, *At Scotland Yard: Being the Experiences during Twenty-Seven Years' Service of John Sweeney, Late Detective-Inspector Criminal Investigation Department New Scotland Yard*, ed. Francis Richards (London: Grant Richards, 1904) 178, 181.

¹⁴ Sweeney 186.

¹⁵ Calder-Marshall suggests that the decision to try the case in the Central Criminal Court rather than in the High Court as requested by Bedborough's counsel was in fact a refusal to give the issue of scientific value due consideration and the regard of a senior judgement (*Havelock Ellis* (London: Hart-Davis, 1959) 165).

boundaries, and its valency outside of its constitutive field—was nevertheless an undercurrent to the affair at large. The court, with its concern over anarchism, was interested only in the responsibility for the sale of the book, but its defenders bypassed the issue of culpability to focus on the status of the book as science and its consequent immunity, in their minds, to prosecution.¹⁶ While Bedborough's guilty plea forestalled any legal debate over the status of the text, it is still illuminating to look at the way in which those defending *Sexual Inversion* attempted to shift the parameters of debate away from the legal discourse of acts and culpability to conceptual and political ones of civil liberties and the demands of knowledge.

That authority was central to the case was evident from the inception of the project. *Sexual Inversion* originated as a collaborative venture between Ellis and John Addington Symonds, instigated by the latter, with the goal of decriminalising homosexuality, specifically, to put an end to the miscarriages of justice wrought by 'Labby's' inexpandible legislation.¹⁷ The project as envisaged by Symonds was also to serve as a corrective to the neuro-psychopathic hypotheses put forward by Continental practitioners such as Tardieu and Krafft-Ebing. These, he argued in a letter to Edward Carpenter, overwhelmingly ignore the evidence of history; the fact that 'one of the foremost races in civilization not only tolerated passionate comradeship, but also utilized it for high social and military purpose' disproves such theories of morbidity.¹⁸ In earlier works, explicitly in essays published privately and more circumspectly in his *Studies in the Greek Poets* (1873-76), Symonds had explored the possibility of a Uranian morality—a new chivalry—modelled on Hellenic *paiderastia*. However, he was also aware that for all the elucidatory power of historical example, a serious challenge to authoritative accounts could not be mounted outside of medical discourse. Conceding his 'own want of scientific equipment,' he openly and pragmatically appealed to the medically trained Ellis to

¹⁶ There was no doubt on the prosecution's part that *Sexual Inversion* was obscene. Sweeney is adamant that there was 'never any hesitation on the part of the authorities as to the illegality of the sale of Ellis's book' and this is borne out by his avoidance of the book's topic—one 'which I cannot possibly describe here ... dealing with certain abnormalities which the law of England has decided wisely enough cannot be discussed in books sold to the general public' (185).

¹⁷ John Addington Symonds, letter to Havelock Ellis, July 1891, letter 1898 of *The Letters of John Addington Symonds*, ed. Herbert M. Schueller and Robert L. Peters, vol. 3, 1885-1893 (Detroit: Wayne State UP, 1967) 587. 'Labby's' referred to the Labouchère Amendment of the 1885 Criminal Amendment Act, which criminalised 'act[s] of gross indecency' between male persons in public or in private.

¹⁸ Symonds, letter to Edward Carpenter, 29 December 1892, letter 2070, Schueller and Peters 798.

furnish professional credibility to his own erudite speculations.¹⁹ As he confessed to Carpenter, '[a]lone, I could make but little effect—the effect of an eccentric.'²⁰

The failure of the partnership—failure insofar as the end product bore Ellis's name alone—has been attributed to the irreconcilability of the two disciplines, notwithstanding their shared reformist enthusiasm. The scientific legitimacy Symonds sought was predicated on norms of objectivity and disinterest which were precisely the criteria by which his introspective erudition was reduced to eccentricity.²¹ It was a contest between poetry and science, Wayne Koestenbaum contends, with the latter eventually eclipsing or 'dismembering' the former. In a hostile assessment of Ellis, Koestenbaum claims:

Sexual Inversion pretends to be a medical text, written by two professional men comfortably living within a discourse of power; the book is, covertly, a self-portrait of the disempowered Symonds turning to a medical collaborator who finally deprived him of voice.²²

In a reversal of hagiographic treatments, Koestenbaum imputes nebulous intentions to Ellis, under whose 'censorious eye' Symonds was demoted from co-author to the pseudonymous contributor 'Z' and Case XVIII.²³ Ellis, far from being the target of censorship, is figured as censor himself, and by statisticising Symonds's testimony, effectively silences his erstwhile collaborator.²⁴

It is misleading to posit so clear-cut and hostile a division between the humanities and science. Ellis was after all something of a polymath, active in political, literary, and scientific circles.²⁵ Not only was his wife Edith a writer herself, Ellis also formed close friendships with Olive Schreiner, Eleanor Marx, and

¹⁹ Symonds, letter to Havelock Ellis, 1 December 1892, letter 2062, Schueller and Peters 789.

²⁰ Symonds, letter to Carpenter, 29 December 1892, letter 2070, Schueller and Peters 797.

²¹ In his autobiography, Ellis admits to having had misgivings about collaboration with someone with such personal investment in the topic of study (*My Life* (1940; London: Neville Spearman, 1967) 295-6).

²² Wayne Koestenbaum, *Double Talk: The Erotics of Male Literary Collaboration* (New York: Routledge, 1989) 44.

²³ Koestenbaum 50. Symonds died in 1893 before the completion of the book. Symonds's literary executor, Horatio Brown, at the request of Symonds's family, bought up the entire first English edition which bore the names of both authors, and stipulated that Symonds's name be removed from subsequent editions.

²⁴ See Joseph Bristow, 'Symonds' History, Ellis's Heredity: *Sexual Inversion*,' *Sexology in Culture: Labelling Bodies and Desires*, ed. Lucy Bland and Laura Doan (Cambridge: Polity, 1998) for an analysis of the misunderstandings on which the collaboration was based.

²⁵ Koestenbaum merely treats Ellis's literary affiliations as evidence of greater betrayal in his suppression of the poetic, further proof of his censorious villainy (50).

Arthur Symonds, among others. As well as the prestigious Contemporary Science Series, Ellis also edited the Mermaid Series of unexpurgated Elizabethan plays, published by Vizetelly's company. Like Vizetelly, Ellis was an early champion of Zola's works, lauding his attack on the 'exaggerated purism which has ruled the French language for nearly three centuries' and thereby expanding the boundaries of novelistic potential.²⁶ Tom Gibbons suggests that this essay on Zola was 'almost certainly intended as a rejoinder to Max Nordau,' which would place Ellis in dialogue with Nordau the 'healthy censor,' but despite this direct rebuttal, the relationship to Nordau was not as straightforwardly antagonistic as Gibbons suggests.²⁷ That Ellis and Nordau shared an intellectual provenance is evident in their indebtedness to Lombroso. Not only was Ellis instrumental in importing and popularising Lombroso's work, his own writing on genius and criminality was clearly informed by Lombroso.²⁸ This shared scientific genealogy should alert us to the more complex power dynamics in place. The fissures in the collaboration between Ellis and Symonds seem clear in retrospect: Lombroso is 'entirely untrustworthy from the historico-critical point of view,' asserts Symonds, a portentous comment, given Ellis's Lombrosian affiliation.²⁹ As it transpired, Symonds's strategic deployment of Ellis's expertise backfired and the hoped-for immunity of borrowed credentials faltered in face of police prosecution. The tensions in the interdisciplinary alliance only partly explain this failure; the internal dynamics of the medical field provide a fuller elucidation of the situation.

To speak of a clash between law and medicine understates the extent to which medicine was itself a heterogeneous and contested field. Until the nineteenth century, it lacked the institutional structures, formalised standards, and the regulatory

²⁶ Havelock Ellis, 'Zola: The Man and His Work,' *Affirmations* (London, 1898) 145. Ellis also produced an unexpurgated translation of *Germinal* for private publication with wife Edith (*My Life* 274).

²⁷ Tom Gibbons, 'The New Hellenism: Havelock Ellis as a Literary Critic,' *Renaissance and Modern Studies* 17 (1973): 137; Nordau, *Degeneration* 24.

²⁸ *The Criminal* is a study of the 'biology of crime,' the main purpose of which is to render the criminal identifiable by the systematic categorisation of the anatomical, physiological, and psychological signs of criminality (*The Criminal* (London, 1890) 25). While Ellis repudiates Lombroso's connection between genius and insanity, having translated his *The Man of Genius* some years earlier, his claim that 'the real affinity of genius is with congenital imbecility rather than with insanity' is nonetheless indebted to Lombroso (*A Study of British Genius* (London: Hurst and Blackett, 1904) 228).

²⁹ Symonds, letter to Havelock Ellis, 20 June 1892, letter 1984, Schueller and Peters 694.

mechanisms necessary to sustain professional cohesion and prestige.³⁰ The Medical Act of 1858 led to the formation of the General Medical Council of Great Britain and its list of registered practitioners, registration being ‘the new benchmark of professionalism.’³¹ Yet the self-monitoring potential of the register masked the extent to which medicine’s traditional rivals prospered well into the nineteenth, and indeed, into the twentieth centuries. Challenged by folk remedy, unscrupulous quackery and the extravagant promises of patent medicines, medicine could not afford an intimate association with a rogue subfield like sexology and hence sexology’s position in the hierarchy of medical sciences was far from assured.³²

Where Ellis notes a ‘peculiar amount of ignorance’ of the topic of inversion amongst medical men as much as the populace, his peers opted for the reticence more consonant with nineteenth-century professional propriety.³³ The ambivalent response of the *Lancet* to the affair is instructive when examining the position of sexology vis-à-vis mainstream medicine. While disputing Ellis’s findings on the congenital nature and extent of inversion, it absolves him of malicious intent. Indignant on his behalf at the denigration of his work as ‘obscene literature,’ it nevertheless chides his failure to publish ‘through a house able to take proper means for introducing [*Sexual Inversion*] as a scientific book to a scientific audience.’³⁴ Yet

³⁰ Even after the 1834 Select Committee on Medical Education, there was no standardised system of training, with physicians alone receiving a university education, while surgeons and apothecaries undertook apprenticeships (Joan Lane, *A Social History of Medicine: Health, Healing and Disease in England, 1750-1950* (London: Routledge, 2001) 29).

³¹ Penelope J. Corfield, *Power and the Professions in Britain 1700-1850* (London: Routledge, 1995) 146.

³² That the medical authorities were willing to discipline wayward members to preserve the integrity of the profession was clearly demonstrated in the case of Dr Henry Allbutt. A secularist involved in the neo-Malthusian movement, Allbutt was struck from the Register in 1887, having been found guilty by the General Medical Council of publishing a marriage manual, including descriptions of contraceptive methods, *The Wife's Handbook* ‘at so low a price as to bring the work within the reach of the youth of both sexes, to the detriment of public morals’ (cited in Peter Fryer, *The Birth Controllers* (London: Secker and Warburg, 1965) 170).

³³ Havelock Ellis, *Studies in the Psychology of Sex*. Vol. 1. *Sexual Inversion* (London, 1897) xi. The 1897 edition will be cited as *Sexual Inversion*.

³⁴ ‘The Question of Indecent Literature,’ *Lancet* 19 Nov. 1898: 1344. The confining of medical publications to a restricted audience was rigorously maintained. In 1863, Samuel La’mert was struck from the Medical Register for his *Self-Preservation*, a treatise on the dangers of over-indulgence, his offence being directing his pamphlet at a lay audience. By contrast, William Acton’s *The Functions and Disorders of the Reproductive Organs*, dealing with similar topics, was received favourably as a ‘serious and scholarly’ work for an elite professional readership (Lesley Hall, ‘“The English Have Hot-Water Bottles”: The Morganatic Marriage Between Sexology and Medicine in Britain Since William Acton,’ *Sexual Knowledge, Sexual Science: The History of Attitudes to Sexuality*, ed. Roy Porter and Mikuláš Teich (Cambridge: Cambridge UP, 1994) 351).

for all its cavilling over unguarded distribution channels, it allows that the work is written in a 'purely dispassionate and scientific style,' motivated 'solely [by] a spirit of scientific inquiry.' The invocation of 'scientific style' is a familiar refrain in the responses to the case. The *New York Medical Journal* argues that its 'attitude of scientific research' permits impartial treatment. *Medicine* gauges its value by 'its judicial tone, its clear style, its freedom alike from prurient prudery and sentimental cant, and its scientific accuracy.' For Edward Carpenter, writing for the *Saturday Review*, the book 'deal[s] decently, straightforwardly, and scientifically' with an urgent subject. Ellis himself offers as proof against wrongdoing his 'English tone of reticence,' his use of 'bald and technical language,' and the overall 'scientific tone and temper' of his work.³⁵ Judicial impugnation is met with the counterclaim of 'pure science,' where science is defined not in terms of subject matter, nor according to procedural or methodological norms, but primarily as a question of style. Gert Hekma has argued that sexology was merely a 'social science with the pretension of being a natural science, a status to which it could aspire only through analogic thinking.'³⁶ Lacking the requisite theoretical tools of analysis, it could only adopt and apply those developed in other fields of study.³⁷ Nevertheless, in face of attack, Ellis and others, borrowing the language of literary criticism, reverted to the idea of a scientific style. That is, the conventions by which science is recognised, it is implied, are ones of presentation and expression, propelling us away from the exigencies of social order implicit in the alleged breaching of 'the peace of our said Lady the Queen' and back into the textual realm, into the domain of language.³⁸

It becomes apparent that the scientific defence endorses what might be seen as a reader-response theory of obscenity. Ellis's supporters called upon a scientific style as a discursive bulwark against allegations of immorality. Yet the emphasis on style, and hence, on the textual, deflected attention from the material at hand back to its reader. The ability to recognise scientific value becomes a matter of literary

³⁵ All excerpts cited in Singer 40-58.

³⁶ Gert Hekma, 'A History of Sexology: Social and Historical Aspects of Sexuality,' *From Sappho to De Sade: Moments in the History of Sexuality*, ed. Jan Bremmer (London: Routledge, 1989) 183.

³⁷ Calder-Marshall further suggests that the entire *Studies* are an elaborate euphemism, 'moral and educational books disguised as science.' The educative purpose could only be expressed 'in the form of quotations from learned authorities, many of whom were engaged in the same sort of sex education, building up their mutual authority by cross-quotation of one another' (*Ellis* 154). Sexology in this view is an internally self-validating field, asserting its authority through self-referential repetition.

³⁸ Cited in Singer 34.

competence and that not every reader is similarly literate is a fact of which the *Lancet* was fully cognisant. A scientific investigation such as Ellis's, though of an unsavoury topic, cannot by any 'reasonable' means be 'included under the head of indecent literature.'³⁹ However, 'such a book may become indecent if offered for sale to the general public with a wrong motive.' Indecency becomes a function of intentions and demographics: obscenity in the nineteenth century, as Saunders asserts, is variable. Calder-Marshall's anecdotal account of finding the book 'on sale in rubber shops off the Charing Cross Road at £1 a dog-eared volume and "ten bob back when you've used it"' has an apocryphal tenor to it, but nevertheless wryly suggests that the distinction between pornography and science is spatially and demographically determined.⁴⁰ The implications of this variable definition of obscenity are left unsaid though. For it becomes clear in the *Lancet* report that science, or at least the concept of science appealed to here, figured as the opposite of obscenity, must necessarily be variable as well. The book, warns the *Lancet*, risks 'fall[ing] into the hands of readers totally unable to derive benefit from it as a work of science and very ready to draw evil lessons from its necessarily disgusting passages.'⁴¹ Oscillating between obscenity and science according to the interpretative ability of the reader, the ontological status of the work becomes radically unstable.

Yet, for all the righteous affront at the denunciation of the work as a 'pretence and a sham,' the avowals of stylistic propriety did not, in the end, challenge the basis of the court's aspersions.⁴² 'There is certainly nothing about the book itself, either in its appearance or in the manner in which the subject is treated, to pander to the prurient mind,' maintains the *British Medical Journal*;⁴³ it is rather the prurient mind that produces obscenity from inoffensively presented material, and the *British Medical Journal*, the *Lancet*, and their professional constituency are resolute in the task of curbing this transformative power of unruly reading.

Bedborough was indicted for

unlawfully and wickedly devising, contriving, and intending to vitiate and corrupt the morals of the liege subjects of our said Lady the Queen, to debauch and poison the minds of divers of the liege subjects of our said Lady

³⁹ 'Question of Indecent Literature' 1344.

⁴⁰ Calder-Marshall, *Ellis* 155.

⁴¹ 'Question of Indecent Literature' 1344.

⁴² Cited in Singer 32.

⁴³ *British Medical Journal* 11 (1898): 1466.

the Queen, and to raise and create in them disordered and lustful desires, and to bring the said liege subjects into a state of wickedness, lewdness, and debauchery.⁴⁴

The reverse would seem to be implied here: it is the dirty minds appended to the 'dirty hands' of such concern to the *Lancet* that would adulterate the 'pure science' of Ellis's work.⁴⁵ It is not that the *Lancet* dispenses with the tutelary discourse of the interventionist state; indeed, it makes the standard references to the 'boy and girl in the street.' Rather, it would seem that science also comes under its custodial purview. In this instance, in arrogating to themselves the authority of science, journals such as the *Lancet* render science dangerously vulnerable to alien forces beyond its boundaries, but the classist assumptions underpinning obscenity law are still in place. There is also an interesting contrast to the case of Zola. In Nordau's medicalising framework, obscenity is transformed into science, into a signifying system of pathologies, whereas here, incompetent reading effects a reverse transformation from medical science to obscenity.

By contrast, the Free Press Defence Committee had a more overtly oppositional stance. Headed by Henry Seymour, it comprised of, in Ellis's words, 'the most variegated assortment of secularists, anarchists, radicals, and unconventional literary free-lances' including Bernard Shaw, Frank Harris, George Moore, E. Belfort Bax, H. M. Hyndman, George Jacob Holyoake, and G. W. Foote.⁴⁶ Rallying behind the cause of 'free and open discussion,' its manifesto was to 'oppose the intrusion of force in the domain of inquiry and debate,' and the publicity of courtroom battle was perceived as the best way of doing so.⁴⁷ The venue, with its public galleries and the press in attendance, had proved to be the ideal staging ground for the heroics of eloquent defences. Holyoake and Foote, both members of the Committee, were veterans of such virtuoso performances in separate blasphemy trials, and even Oscar Wilde, despite his conviction, had a momentary courtroom

⁴⁴ Cited in Singer 34.

⁴⁵ 'Question of Indecent Literature' 1345.

⁴⁶ Ellis, *My Life* 307.

⁴⁷ 'The Bedborough Case.' [Extracted from the Manifesto of the Free Press Defence Committee]. *Adult* 2.11(1898): 339.

triumph when applauded for his exposition on Platonic friendship.⁴⁸ The forthcoming trial was thus much anticipated and Bedborough's plea was condemned as treachery.

The censoring of *Sexual Inversion* thus involved more than its physical suppression. It also entailed the struggle for control over the terms by which the affair was apprehended and the site at which it would be staged. The Committee sought to articulate its protests within a framework of philosophic debate; significantly, Seymour inserted the debacle into a narrative of Inquisitorial atrocity, a historical trajectory placing Ellis extravagantly in the company of Bruno, Galileo, and Vanini.⁴⁹ The police and court, however, unwaveringly pursued the case as an infraction of obscenity law. Denied the arena of the Old Bailey, Committee members sought other avenues to broadcast their views: Frank Harris' *Saturday Review*, H. M. Thompson's *Reynolds*, and the Legitimation League's the *Adult*.

Ellis's ambivalent response reflects the difficulties in formulating an effective legitimating defence. There is perhaps some offence in his allegation that 'there was not a single doctor of position among [the Committee members] and the official men of science deliberately stood aloof,' yet he himself abjures the 'martyr's crown,' such activism, he contends, being inimical to the scientist's profession.⁵⁰ Retreating behind standard platitudes of scientific disinterest and academic immunity, he lauds the worthiness of, yet refuses to participate in, the 'wrestl[ing] in the public arena for freedom of speech,' for the pursuit of knowledge transcends matters of politics.⁵¹ The Committee argues that it is surely 'for science alone, not law, to determine the limits of her province,' and here, the scientist does annex these boundary-setting rights, but only to circumscribe its domain.⁵² The law is figured as a threat to the autonomy of science and its constitutive principles of the open exchange of information, yet the consolidation of this autonomy is itself predicated on exclusory mechanisms that, while curtailing access for the uninitiated, also limits its clout

⁴⁸ Marsh 116-7, 144; Linda Dowling, *Hellenism and Homosexuality in Victorian Oxford* (Ithaca: Cornell UP, 1994) 1, 142.

⁴⁹ Henry Seymour, 'The Literary "Hallmark" of the Old Bailey,' *Adult* 2.11 (1898): 324.

⁵⁰ Ellis, *My Life* 308; cited in Singer 45.

⁵¹ Cited in Singer 45. But as Crozier points out, in seeking to wrought social and legal change, *Sexual Inversion* was first and foremost a 'politically-motivated sexological text' ('Havelock Ellis, John Addington Symonds and the Construction of *Sexual Inversion*,' introduction, *Sexual Inversion: A Critical Edition* by Havelock Ellis and John Addington Symonds, ed. Crozier (1897; Houndmills: Palgrave Macmillan, 2008) 59).

⁵² 'Bedborough Case' 339.

beyond its immediate province. The result, as I have suggested, was a science that was defined by the sensibility of the layperson; debarred from the domain of science, the layperson nonetheless provided definitional criteria for science itself.

To conclude this section, let me reiterate that 'science' was not a pre-existent body of knowledge silenced by the law, as 'Justitia' in the *Adult* implies, in castigating law's attempt to 'gag science.'⁵³ Instead, a particular concept of science was articulated at the point of attack, a concept strategically formed to fit into a defensive agenda. This instrumental use of the rhetoric of science was not exclusive to Ellis and his supporters. Throughout the century, the idea of science had been harnessed by disaffected sections of the medical community to challenge a professional hierarchy structured along patronage rather than meritocratic lines.⁵⁴ Medical authority derived from social values and cultural accomplishments rather than scientific expertise, and the ideal of the gentleman doctor, classically educated, broadly experienced, and discreetly mannered, still had purchase. Science, less 'a body of knowledge or technique in particular than ... a value system,' was invoked both as a legitimating discourse for, and a constitutive element of, an alternative professional identity with the formerly marginalised practitioner at its centre.⁵⁵ In the Bedborough affair, a concept of science was espoused that would guarantee intellectual probity through stylistic nicety, one that was consonant with jurist James Fitzjames Stephen's pronouncement on obscene publication:

A man ... might with *perfect decency of expression*, and in complete good faith, maintain doctrines as to marriage, the relation of the sexes, etc., which would be regarded as highly immoral by most people, and yet (I think) commit no crime.⁵⁶

⁵³ Justitia. 'The Survival of the Inquisition,' *Adult* 2.11 (1898): 330.

⁵⁴ The ostensible unity forged by the Medical Act merely replaced the trichotomous structure of apothecaries, surgeons, and physicians with a dichotomous and no less antagonistic one, pitting hospital consultant against general practitioner (Christopher Lawrence, 'Incommunicable Knowledge: Science, Technology and the Clinical Art in Britain 1850-1914,' *Journal of Contemporary History* 20.4 (1985): 506; S. E. D. Shortt, 'Physicians, Science, and Status: Issues in the Professionalization of Anglo-American Medicine in the Nineteenth Century,' *Medical History* 27.1 (1983): 62).

⁵⁵ John Harley Warner, 'The History of Science and the Sciences of Medicine,' *Constructing Knowledge in the History of Science*, spec. issue of *Osiris* 2nd series, 10 (1995): 170. It was not that clinical medicine rejected science, but that the reduction of medicine to scientific reasoning and the myopic focus of specialisation were thought detrimental to the gentlemanly 'art' or practice of medicine. Christopher Lawrence claims that this attitude was based on the longstanding distinction between 'art as practice, and science as theory' (510). See also John Harley Warner, 'The Idea of Science in English Medicine: the "Decline of Science" and the Rhetoric of Reform, 1815-45,' *British Medicine in an Age of Reform*, ed. Roger French and Andrew Wear (London: Routledge, 1991)).

⁵⁶ Cited in Singer 54, my emphasis.

Although cited by *Reynolds*’ as a sanctioning of obscenity in service of science, Stephen’s argument is more interesting for its focus on linguistic decorum. The discussion of heterodox ideas is permitted, but significantly, with a stylistic caveat, and as I have argued above, a similar concern informs the justifications of *Sexual Inversion* as a legitimate work of science.⁵⁷

Moreover, in exploiting the rhetorical utility of a particular concept of science, a strategic collapse between the two fields of medicine and science was effected, which in turn downplayed the extent to which sexology was liminal to both. Disowned by—or at least judiciously distanced from—orthodox medicine, nor yet a natural science: sexology and its practitioners were subject to forces both within and without. At the same time though, as the ‘father of modern sexology,’ Ellis is complicit in the medicalisation of sexuality that formed part of what Foucault identifies as the newly emergent ‘technology of sex’ in the nineteenth century, one that produced the sexual subject as the object of knowledge and regulation.⁵⁸ In *Sexual Inversion*, it is the figure of the invert that is produced in this nexus of power and knowledge.

Censoring/Producing the Sexual Subject: Ellis’s Cases-Histories

That Ellis is enmeshed in these structures of power is well documented in the denunciations of his theories as expressions of western male hegemony. Feminist critics take issue with his theory of female sexual passivity which naturalises power imbalances, as well as restrictive lesbian stereotypes which posit gender attributes and lifestyle choices as signifiers of deviance. His models of female sexuality permit desire, but only within a procreative framework.⁵⁹ Others have pointed to the ways in

⁵⁷ Marsh identifies a similar shift in emphasis in the prosecution of blasphemy, from ‘the religious “matter” to the stylistic “manner” of the crime’, where transgression no longer resided in the heterodox content of utterances, but in the way in which such utterances were made: this shift in effect heralded the judicial proscription of plain speaking (158). In the *Sexual Inversion* case however, the slippage from matter to manner was effected by the maligned party—Ellis and his scientific colleagues. This divergence in approach is comparable to the disjuncture between the Free Press Defence Committee’s commitment to the ideals of free speech and Ellis’s primary concern for the integrity of his work as science.

⁵⁸ Foucault, *History of Sexuality* 118.

⁵⁹ See, for example, Sheila Jeffreys, *The Spinster and her Enemies: Feminism and Sexuality 1880-1930* (London: Pandora, 1985); Margaret Jackson “‘Facts of Life’ or the Eroticization of Women’s

which Ellis's theories draw on evolutionary discourse, at once invoking and legitimating in the name of science racial prejudices underwriting Britain's late-century imperialist ventures.⁶⁰

However, I want to argue that Ellis's work censors in a less overt manner. If we accept Butler's idea of censorship as processes of subject formation, then the ways in which *Sexual Inversion* provides the space and the vocabulary to articulate late-century inversion might also be seen as a form of censorship. The 1897 edition of *Sexual Inversion* comprises of thirty-one anonymous case-histories, twenty-seven male inverts and four female.⁶¹ About half of these were provided by Symonds, who elaborated on his method of soliciting the histories in a letter to Ellis: 'I framed a set of questions upon the points which seemed to me of most importance after a study of Ulrichs and Krafft-Ebing.'⁶² While it is unclear which ones were provided by Symonds, virtually all the cases follow a similar format.⁶³

The scientific utility of Ellis's histories has been dismissed by critics who point to omissions and alterations in the interests of confidentiality.⁶⁴ Most frequently adduced are the discrepancies between the history of 'Miss H,' identified

Oppression? Sexology and the Social Construction of Heterosexuality,' *The Cultural Construction of Sexuality*, ed. Pat Caplan (London: Routledge, 1991). Lesley Hall rejects such uncompromising assessments, for although informed by biological difference, Ellis was also critical of the extent to which sexual difference had been overstated and distorted ('Hauling Down the Double Standard: Feminism, Social Purity and Sexual Science in Late Nineteenth-Century Britain,' *Gender and History* 16.1 (2004): 49). Hall does concede that sexology effaced its 'matrilineal' heritage, refusing to acknowledge its debt to feminist social purity movements which helped forge a social and political environment more receptive to the serious discussion of sex (48).

⁶⁰ See, for example, Julian Carter, 'Normality, Whiteness, Authorship: Evolutionary Sexology and the Primitive Pervert,' *Science and Homosexualities*, ed. Vernon A. Rosario (New York: Routledge, 1997); Ronald R. Thomas, 'The Fingerprint of the Foreigner: Colonizing the Criminal Body in 1890s Detective Fiction and Criminal Anthropology,' *ELH* 61 (1994).

⁶¹ Ellis examined thirty-six cases in this first study, some of which were 'somewhat fuller versions' than published while others 'I was unable to publish at all.' He thus glibly accounts for any inconsistencies: 'Numerous apparent discrepancies may thus be explained' (*Sexual Inversion* 104).

⁶² Symonds, letter to Havelock Ellis, 12 February 1893, letter 2087, Schueller and Peters 817.

⁶³ Each case opens with the details of the subject, comprising in various combinations of age, profession, race, heredity and general health. There follows an account of the subject's sexual history, the emergence of sexual awareness, and experience and attitudes towards women. The physical and personal characteristics of both the subject and his object of desire are recorded, as are his aptitudes and pastimes. The cases conclude with the subject's reflections on the morality of inversion. Aside from Symonds's contribution, Ellis also solicited cases from Edward Carpenter while from his wife Edith, he received all four cases of female inversion.

⁶⁴ See, for example, Vern L. Bullough, *Science in the Bedroom: A History of Sex Research* (New York: Basic Books, 1994) 78-9; Vincent Brome, *Havelock Ellis: Philosopher of Sex. A Biography* (London: Routledge, Boston and Henley: Kegan Paul, 1979) 93; and Phyllis Grosskurth, *Havelock Ellis: A Biography* (London: Allen Lane-Penguin, 1980) 178-9. Ellis is also charged with failing to examine his subjects directly and using second-hand accounts.

as Ellis's wife Edith, and the account given in Ellis's autobiography.⁶⁵ Ellis himself admitted not only to have wielded the editor's shears, but also to have exercised censorious discretion. In the preface of the 1936 Random House edition of *Studies*, Ellis defends his part in the Bedborough controversy, claiming that the alleged libels consisted not in anything whatever that I had written, but merely in a few details concerning early life from the Histories recorded, and in those Histories, I may remark, I had really toned down certain crude details which do not seem to me essential in a psychological study.⁶⁶

Ellis was clearly sensitive to the tonal proprieties of science as well as the expressive niceties dictating publishing practice. My intention is not to contest the methodological flaws of Ellis's scientific practice, nor to dwell on these instances of explicit censorious activity. Ellis validates his theoretical conclusions by asserting their scientific legitimacy: 'I approach the matter as a psychologist who has ascertained certain definite facts, and who is founding his conclusion on those facts.'⁶⁷ This section returns to the case-histories to argue that the 'facts' indelibly bear the collator's mark, Ellis's avowal of objective empiricism notwithstanding. Symonds's questions, based on Continental scholarship as interpreted by Symonds himself, already suggest at least two mediatory agents in the quest to extract the subject's life narrative. Purporting to be derived from the 'facts' of the invert's experiences, Ellis's theorisations nonetheless reverse the process of influence by setting out legitimate and intelligible forms of expressing these 'truths' about the (sexual) self.

Ellis justifies his project as a necessary counterbalance to the ignorance and prejudice perpetuated by 'law and public opinion [which] combine to place a heavy penal burden and a severe social stigma on the manifestations of an instinct which to those persons who possess it frequently appears natural and normal.'⁶⁸ Ellis's congenital explanation of same-sex passion challenges the religious-moral injunctions against homosexuality as sin on the one hand and its pathologisation as degenerate sexuality on the other. By showing inversion to be a physiological anomaly, an inborn aberration rather than diseased state, Ellis hopes to reevaluate the

⁶⁵ See Arthur Calder-Marshall, *Lewd, Blasphemous and Obscene* (London: Hutchison, 1972) 201-2.

⁶⁶ Havelock Ellis, *Studies in the Psychology of Sex*, vol. 1 (New York: Random House, 1936) xvii.

⁶⁷ Ellis, *Sexual Inversion* 129.

⁶⁸ Ellis, *Sexual Inversion* xi.

invert's social and legal standing and to this purpose, he examines the occurrence of inversion both in the natural world and in past human races. Equally crucial to the legitimization process is the insistence that the invert not only is not defective in other capacities, but is frequently an exceptional individual. There is therefore great emphasis on the invert's integrity and intellectual and artistic accomplishments, with historical examples of 'men of exceptional intellect,' such as Michelangelo, Winckelmann, Marlowe and Whitman.⁶⁹ Concomitantly, the physical acts of same-sex passion are downplayed and pejorative stereotypes of effeminacy repudiated.⁷⁰ Ellis insists repeatedly that his subjects are obtained, not from the morbid exemplars of a physician's patient list, nor from the criminal-forensic records of the penitentiary or asylum, but from ordinary society.⁷¹

Such sublimation and recuperation were standard ploys of late-century homosexual apologists. Edward Carpenter controversially promoted the non-procreative nature of same-sex relationships as a social good, arguing that the energy not expended in propagation of race could be directed at cultural regeneration, channelled into aesthetic production rather than biological reproduction.⁷² Uranian poets valorised a spiritual and asexual love, drawn from the legitimating discourses of Oxford Hellenism. This new Hellenism, as Linda Dowling terms it, founded on the ennobling qualities of *paidierastia* as opposed to the civic virtue central to the older Hellenism of classical republicanism, provided 'a legitimating counterdiscourse of social identity and erotic liberation,' with the martial origins of

⁶⁹ Ellis, *Sexual Inversion* 14.

⁷⁰ Amongst his subjects are 'a good example of an all-round healthy Englishman' (*Sexual Inversion* 42), one whose 'tastes are masculine in every respect' (53), and another whose 'temperament is feminine' but nevertheless, is 'physically and morally courageous' (76). Ellis's subjects themselves frequently make the distinction between the nobility of their own natural inclinations and the degradation of exploitative or excessive sexual drives. This insistence could be a response to the tendency in late-century purity movements to conflate homosexuality and prostitution, attributing both to unbridled male desire (Jeffrey Weeks, *Sex, Politics and Society: The Regulation of Sexuality Since 1800*, 2nd ed. (London: Longman, 1989) 106).

⁷¹ The one exception is Case XXII, an American 'acquainted with both the prison and the lunatic asylum' (*Sexual Inversion* 68). The rest, Ellis claims, 'may be said, on the whole, to represent the intellectual aristocracy of inversion' (127). As Jeffrey Weeks observes, the case-histories 'were biased towards "normality"' (*Coming Out: Homosexual Politics in Britain from the Nineteenth Century to the Present*, rev. ed. (London: Quartet, 1990) 64).

⁷² He writes in his privately published pamphlet, 'Homogenic Love,' 'just as the ordinary sex-love has a special function in the propagation of the race, so the other love should have its special function in social and heroic work, and in the generation—not of bodily children—but of those children of the mind, the philosophical ideals which transform our lives and those of society' (cited in Robert Sulcer, 'Ten Percent: Poetry and Pathology,' *Victorian Sexual Dissidence*, ed. Richard Dellamora (Chicago: U of Chicago P, 1999) 239).

paiderastia expunging any taint of effeminacy.⁷³ Symonds, his formative years passed in this milieu of academic classicism, reserved his approbation only for that which he called 'Greek Love,' and thus his 'plea for toleration was rigorously selective.'⁷⁴ A similar selectivity is also evident in *Sexual Inversion*.

Few would argue that Ellis's intentions were other than benign or his treatment of the subject unsympathetic. Yet his congenital explanations inadvertently consign the invert to deterministic structures that confine as much as exculpate. In his attempt to counteract negative stereotypes and challenge restrictive sexual norms, Ellis institutes an alternative model of normative homosexual behaviour. Invoking the 'dignity, temperance, even chastity' of *paiderastia* or alternatively the 'wholesome and robust ideal' exemplified by Whitman's 'manly love,' Ellis expounds a form of same-sex morality in familiar and conservative terms: 'it is the ideal of chastity, rather than of normal sexuality, which the congenital invert should hold before his eyes.'⁷⁵ Inversion being a congenital aberration, the aim is not to seek a cure, but to ensure the circumstances that would 'enable an invert to be healthy, self-restrained, and self-respecting.'⁷⁶ While Ellis appeals to classical culture and poetic authority, the rhetoric of control and discipline is not so different from that of say, mid-century 'muscular Christianity' or the social purity movement.⁷⁷ While challenging extant prejudices against homosexuality as vice or degenerative condition, in the end, Ellis still adheres to hegemonic values within the framework of what F. M. L. Thompson calls the 'rise of respectable society.'⁷⁸ Claims such as Phyllis Grosskurth's that Ellis's outlook was 'basically *épater les bourgeois*' must therefore be read with caution, for they impute too simplistic a radicalism to Ellis.⁷⁹

The confidence in his subjects' veracity expressed throughout is entirely in keeping with Ellis's recuperative strategy, but the added urgency in avowals of their

⁷³ Dowling, *Hellenism* 36.

⁷⁴ John Pemble, 'Art, Disease, and Mountains,' *John Addington Symonds: Culture and the Demon Desire*, ed. Pemble (Houndmills: Macmillan; New York: St Martin's, 2000) 11-2.

⁷⁵ Ellis, *Sexual Inversion* 147.

⁷⁶ Ellis, *Sexual Inversion* 146.

⁷⁷ Joseph Bristow claims that Ellis's project was essentially 'moralistic' (*Sexuality* (London: Routledge, 1997) 13).

⁷⁸ F. M. L. Thompson, *The Rise of Respectable Society: A Social History of Victorian Britain, 1830-1900* (London: Fontana, 1988).

⁷⁹ Grosskurth 167.

‘unsparing sincerity’ in a later edition bespeaks more pressing anxieties.⁸⁰ Here too, Ellis feels the need to assert his investigative superiority to that of rival discipline psychoanalysis. In *Three Essays on the Theory of Sexuality* (1905), Freud had directly challenged Ellis’s congenital theory, claiming that the distinction between congenital and acquired inversion could not be so easily established.⁸¹ Ellis’s counterattack sees him attempt to wrest back control by invoking the authority of scientific objectivity:

Psycho-analysis reveals an immense mass of small details, any of which may or may not possess significance, and in determining which are significant the individuality of the psychoanalyst cannot fail to come into play. He will necessarily tend to arrange them according to a system.⁸²

Psychoanalysis is presented as the selective distillation of its subject’s story to fit a pre-determined narrative and thus a self-validating distortion on the practitioner’s part. By implication, Ellis’s own practice purports to ensure the integrity of his subject’s history, a disingenuous claim, for the imprint of Ellis’s editorial hand is equally present.

The narrative variations of the cases, presented in the first person, the third, or a combination of both, suggest deliberate selection and re-articulation by Ellis. Case XII, for example, is in the third person, reverting to direct quotation only on the subject’s idiosyncratic predilection for ‘intelligent teeth.’⁸³ Writes Ellis, “‘If Alcibiades himself tried to woo me,” he says, “and had bad teeth, his labour would be in vain”.’ The phraseological quaintness presumably merits a direct transcription. On the other hand, Ellis’s comment on his subject’s all-consuming passions—they ‘obtrude themselves in season and out of season, seldom or never leaving him quiet, and sometimes making his life a hell’—also has an idiomatic quality. The direct speech above has shifted into free indirect discourse although the point of transfer cannot easily be determined. More confusingly, when Ellis describes his subject—‘[h]is tastes are masculine in every respect ... The sexual instincts are abnormally

⁸⁰ Havelock Ellis, *Studies in the Psychology of Sex*, vol. 2 (New York: Random House, 1936) 91.

⁸¹ Bristow, *Sexuality* 65-6; Ivan Dalley Crozier, ‘Taking Prisoners: Havelock Ellis, Sigmund Freud, and the Construction of Homosexuality, 1897-1951,’ *Social History of Medicine* 13.3 (2000).

⁸² Ellis, *Studies*, vol. 2 90.

⁸³ Ellis, *Sexual Inversion* 54.

developed’—it is unclear to whom these assessorial standards can be attributed.⁸⁴ By contrast, Case XVII is predominantly in the first person, allowing the subject’s professions of sentiment a sense of immediacy.⁸⁵ There is later a direct interjection and forthright judgement by Ellis on the subject’s views on morality, informing his reader that ‘[t]here are some obvious fallacies in this attitude but the subject markedly lacks reasoning power,’ thereby calling into question the subject’s own judgement, if not the entire testimony. A similar intrusion occurs in Case XV, presented as first person narrative, with a single interruption denoted by square brackets: ‘[It will be observed that the word “natural” is here used in a peculiar sense.]’⁸⁶ The assertiveness of expert opinion with the neutrality of the passive voice give an indication of what Ellis meant by the ‘scientific tone and temper’ of his work.⁸⁷ Narrative attribution is more ambiguous in Case XIV, narrated in the third person. Ellis writes, ‘He remarks that his father and mother were passionless, and that this was possibly a cause of neuropathic disorder. (It may have been a symptom of it).’⁸⁸ Here, it is not clear whether the parenthetical statement is a narratorial interjection or speculation by the subject.

Moreover, the telling of one’s life, whether verbatim or paraphrased, is a form of confessional discourse, a technology of self, according to Foucault, that always unfolds within a dynamic of power.⁸⁹ Foucault explicitly names Ellis, amongst others, as instrumental in resuscitating and secularising the religious confessional as a ‘confessional science.’⁹⁰ In this schema, confession, as the exhortation to speech, is the opposite of censorship, in the limited sense of silencing. But if censorship refers not just to the suppression of dissent, but the stipulation of articulable dissent, not just to the refutation of certain subjectivities, but the specification of their conditions of emergence, then censorship functions at the level of production as well as regulation of discourse. Dennis A. Foster, glossing Paul Ricoeur, states that the act of confession is in effect a discursive re-enactment that

⁸⁴ Ellis, *Sexual Inversion* 53.

⁸⁵ Ellis, *Sexual Inversion* 58.

⁸⁶ Ellis, *Sexual Inversion* 56.

⁸⁷ Cited in Singer 42.

⁸⁸ Ellis, *Sexual Inversion* 54.

⁸⁹ Peter Brooks examines how the confessional embodied the dual purposes of consoling and policing in *Troubling Confessions: Speaking Guilt in Law and Literature* (Chicago: U of Chicago P, 2000).

⁹⁰ Foucault, *History of Sexuality* 63-4.

converts a transgressive act into sin.⁹¹ Here, it is a discursive ordering that converts (and constructs) characteristics and events into signifiers en masse, and these signifiers into a coherent narrative of inversion. The confessional is the technique by which the sexual ‘truth’ about the self is produced while creating the illusion of interiority; a further consideration then is the form in which this ‘truth’ is articulated. As demonstrated, Ellis wields narratorial authority at the level of compilation and contextualisation. On another level, *Sexual Inversion* also endorses a particular form of personal narrative.

Vernon A. Rosario contends that ‘the fin-de-siècle “homosexual” was a fictional character (albeit culturally and politically real) spun from the pre-existing figures of the sodomite, the hysterical male, and the degenerate.’⁹² If the invert was indeed a ‘fictional character,’ then the question arises as to what narrative vehicle was used to develop this figure. I want to suggest that the narratives presented by Ellis are *Bildungsromane* in miniature: these histories chart the evolution of the homosexual individual in a manner that recapitulates the formal and thematic features of the novel of self-development popular in nineteenth-century England. According to Marianne Hirsch, the *Bildungsroman* or ‘novel of formation,’ is ‘the story of a representative individual’s *growth and development* within the context of a defined social order.’⁹³ The case-histories consist of genealogical details, descriptions of formative school years, accounts of sexual encounters, before arrival at the telos of self-hood accompanied by moral introspection: this sequential progression equally applies to the *Bildungsroman*.⁹⁴

⁹¹ Dennis A. Foster, *Confession and Complicity in Narrative* (Cambridge: Cambridge UP, 1987) 16.

⁹² Vernon A. Rosario, ‘Homosexual Bio-Histories: Genetic Nostalgias and the Quest for Paternity,’ *Science and Homosexualities*, introduction, ed. Rosario (New York: Routledge, 1997) 16. Rosario plays on the word ‘fictional’ in terms of both the imaginary construct of the homosexual and the literary sources which ‘informed the very fictions science was dedicated to spinning’ (‘Inversion’s Histories | History’s Inversions: Novelizing Fin-de-Siècle Homosexuality,’ *Science and Homosexualities*, ed. Rosario (New York: Routledge, 1997) 101). My interest lies in the narrativising processes which create this fictional character. While not approaching Krafft-Ebing’s astounding collection of cases in number or length—there were over two hundred by the 1903 twelfth edition, most of which ‘read like novels’ (Renate Hauser, ‘Krafft-Ebing’s Psychological Understanding of Sexual Behaviour,’ *Sexual Knowledge, Sexual Science: The History of Attitudes to Sexuality*, ed. Roy Porter and Mikuláš Teich (Cambridge: Cambridge UP, 1994) 211)—Ellis’s case-histories can still be considered miniature narratives in themselves.

⁹³ Marianne Hirsch, ‘The Novel of Formation as Genre: Between Great Expectations and Lost Illusions,’ *Genre* 12 (1979): 296.

⁹⁴ See Hirsch; Jerome Hamilton Buckley, *Season of Youth: The Bildungsroman from Dickens to Golding* (Cambridge, Massachusetts: Harvard UP, 1974); Jeffrey L. Sammons, ‘The Bildungsroman

The case-histories are likewise narratives of individuation and integration, but significantly, with an added role inscribed for Ellis. Carpenter may envisage a negotiatory function for the intermediate sex in his utopian sexual politics, but here, it is the sexological professional who is assigned mediating agent, whose role is to effect rapprochement between individual and society.⁹⁵ This movement towards collective validation occurs on two fronts. First, the specification of physiological, dispositional, and avocational indices of inversion does not just delimit the parameters of self-definition. In its typological function, these specifications also gesture towards a communal identity. Ellis collates the biographical material under various headings, such as 'heredity,' 'physical sexual abnormalities,' and 'moral attitudes,' summarising and synthesising individual cases into a larger collectivity by drawing comparisons between them and conclusions from the data amassed.⁹⁶ Second, the congenital theory seeks to dispel prejudices against inversion as vice or as disease, thus easing the reintegration of the anomalous individual into society. These narratives for the large part depict individuals who assert the naturalness and morality of their inclinations. These might be narratives of acculturation, but in the process they also seek to educate society at large as well. Following the Bedborough trial, Ellis received unsolicited letters from readers testifying to epiphanic moments of identification, many offering in turn their own life narrative to Ellis. These letters can be seen as an epistolary equivalent of the hailed subject's response to the 'Hey, you there' of Althusserian interpellation, and their use as histories in subsequent editions confirms the significance and success of *Sexual Inversion* as a site fostering subcultural solidarity.⁹⁷

There are ideological implications to this particular narrativisation. It has been said that the *Bildungsroman* is 'the equivalent of the Renaissance conduct book,

for Nonspecialists: An Attempt at a Clarification,' *Reflection and Action: Essays on the Bildungsroman*, ed. James Hardin (Columbia: U of South Carolina P, 1991).

⁹⁵ John Simons, 'Edward Carpenter, Whitman and the Radical Aesthetic,' *Gender Roles and Sexuality in Victorian Literature*, ed. Christopher Parker (Aldershot, Hants: Scholar, 1995).

⁹⁶ Thus, for example, on the issue of the hereditary nature of inversion, he writes: 'I possess some record of heredity in thirty-two of my cases. Of these not less than ten assert that they have reason to believe that other cases of inversion have occurred in their families' (*Sexual Inversion* 105).

⁹⁷ See the testimonies in Jeffrey Weeks and Kevin Porter's collection for how sexological works provided the vocabulary and form for articulating a common homosexual experience (*Between the Acts: Lives of Homosexual Men 1885-1967*, 2nd ed. (London: Rivers Oram, 1998)).

insofar as one of its recurrent themes is the making of a gentleman.⁹⁸ Given Ellis's commitment to the social legitimacy of respectability, these narratives of homosexual becoming might equally be seen as a conduct book for the making of a *homosexual* gentleman. Moreover, according to Jeffrey L. Sammons, the *Bildungsroman* embodies 'intensely bourgeois' values.⁹⁹ 'The idea of cultivation (*Bildung*) through a harmony of aesthetic, moral, rational, and scientific education,' argues Fritz Martini, in his study of the genre's eighteenth-century German provenance, 'had long been common property of Enlightenment thought.'¹⁰⁰ At heart is a belief in the perfectibility of self, one shared with Nordau, arch-censor in Chapter Three.¹⁰¹ Ellis's investment in the values of bourgeois culture thus extends beyond his explicit delineation of the conditions of homosexual respectability. The very form of the case histories he purports to present intact and objectively is itself inscribed in a particular ideological tradition.

My aim has not been to detract from the radical elements of Ellis's career, nor to belittle his humanitarian intentions by reclaiming Ellis into a repressive Victorian regime. As Hall argues, the 'crucial revolution' was not in the content of his work—Ellis did, at times, glibly reiterate contemporary truisms—but in the fact that hitherto 'occluded topic[s]' were presented as legitimate subjects of scientific investigation.¹⁰² Despite protestations to the contrary, Ellis eschewed excessive scientific obfuscation and his prose is strikingly lucid in comparison to the 'awkward circumlocutions, the passages of dry Latin prose, the strange, defunct, neologisms' prevalent in the field.¹⁰³ While Ellis and his work were subject to public censure and the books were henceforth only published across the Atlantic, Ellis himself also

⁹⁸ Buckley 20.

⁹⁹ Sammons 42.

¹⁰⁰ Fritz Martini, 'Bildungsroman—Term and Theory,' trans. Claire Baldwin and James Hardin, *Reflection and Action: Essays on the Bildungsroman*, ed. Hardin (Columbia: U of South Carolina P, 1991) 5.

¹⁰¹ Recall Aschheim's characterization of Nordau's positivist outlook as an expression of the 'classical humanizing axioms of Western morality, rationalist Enlightenment and liberal notion of progress' (652).

¹⁰² Lesley Hall, 'Heroes or Villains? Reconsidering British *fin de siècle* Sexology,' *New Sexual Agendas*, ed. Lynne Segal (Houndmills: Macmillan, 1997) 15.

¹⁰³ Rita Relski, introduction, *Sexology in Culture: Labelling Bodies and Desires*, ed. Lucy Bland and Laura Doan (Cambridge: Polity, 1998) 1. Compare Ellis's relative frankness with Richard von Krafft-Ebing's strategy, stated in the preface of the first edition of *Psychopathia Sexualis*, of deploying a 'scientific title,' 'technical terms' and Latin esotericisms 'in order to exclude the lay reader' (*Psychopathia Sexualis. With Especial Reference to the Antipathic Sexual Instinct. A Medico-Forensic Study*, 12th ed., trans. F. J. Rebmar (London: Heineman, [1903]) vii).

exercised a censorial power that was more constitutive in nature. There were certainly explicit instances of censorship where Ellis took on the bowdleriser's task in manipulating his subjects' narratives and Symonds's contributions. But at a less tangible level, *Sexual Inversion*, through enshrining a particular narrative of self-discovery, set the parameters by which the experiences of the late-century invert could be coherently articulated and received. It is in this sense that such discursive constraints are productive, for they delimit the boundaries of the speakable and thus produce the conditions and possibilities for a particular subjectivity, at once a project of objectification and subjectification. For while the censorious forces of Respectability and Order are named his nemeses, at the centre of Ellis's legitimating mission sat the bourgeois behemoth of Respectability, and the creating of a science of sex, with its cataloguing of anomalies, its classification of pleasures, and its specification of types, is surely nothing less than a great ordering project.¹⁰⁴

Thus, one way of conceptualising Ellis's complicity in a more constitutive censorship is by looking at how sexology provided the form and justifications that made the invert a recognisable and coherent figure. Similarly, trials mapped out a space for the debating and elucidating of the boundaries of the permissible. In both instances, censorship entailed more than a narrowly repressive function to take on the more productive role of making public a discourse on censorship and making visible a particular subjectivity. Part Three looks more closely at the idea of censorship and the visible, with specific focus on the visual arts. The participants in *Whistler v. Ruskin* defended their expressive rights in court, against the censorious forces of libel law (for Ruskin) and critical attack (for Whistler), but at the same time debated the definitions of art and authoritative theories of seeing. In controversies over the nude, its supporters countered attacks by social purity activists by isolating and elevating a purified visual aesthetic from a sensual, bodily consumption. If on one level, censorship determines what can be exhibited in public, this stratification of vision controls what is visible and how it is interpreted at a more constitutive level: at the level of the viewer herself.

¹⁰⁴ Ellis, *My Life* 311.

Part III

Censorship and the Visual Field

Chapter 5

Whistler v. Ruskin: The Judgement of Law and the Judgment of Taste

Subsequent to public outrage over the prospect of a nude sculpture exhibition at the Crystal Palace in 1854, plaster fig leaves were appended to the offending parts, leading a journalist from the *Times* to comment that ‘it still remains somewhat doubtful whether the requisite quantity of plaster foliage can be obtained before the opening.’¹ This incident conforms to popular conceptions of Victorian censorship, what Foucault’s repressive hypotheses postulates as a denial of the body to the detriment of artistic expression. On another occasion, Swedish photographer Oscar G. Rejlander was obliged to use the metaphorical fig leaf of strategic drapery when showing his controversial *The Two Ways of Life* (1856), featuring both nude and clothed figures, in Scotland in 1858.² But in a somewhat telling indictment of libertarian fallacy, Queen Victoria, the doyenne of nineteenth-century propriety in popular mythology, had herself purchased a copy of this photograph as a present for Albert.³ This is surely an indication that facile accusations of prudery do not fully account for the complexities of regulating the visual field. The proliferation of new opportunities for looking throughout the nineteenth century irrevocably altered the visual field, rendering it impractical and indeed, impossible, to deploy the ‘requisite

¹ Cited in Martin Myrone, ‘Prudery, Pornography and the Victorian Nude (Or, What Do We Think the Butler Saw?),’ Smith, *Exposed* 31.

² William Vaughan, ‘The Naked and the Nude,’ *The Artist’s Model: From Etty to Spencer* ed. Martin Postle and Vaughan (London: Merrell Holberton, 1999) 113.

³ In fact, the royal couple had quite a sizable collection of nudes, for she customarily presented her husband with such works as birthday gifts, which according to Alison Smith, were ‘regarded as a pure gesture that also fostered high art’ (‘Nude in Nineteenth-Century Britain,’ Smith, *Exposed* 12).

quantity of plaster foliage': the censorship of the visual realm involved more than controlling that which is open to view. Instead, there was a growing concern over what might constitute legitimate ways of looking and the methods by which these practices could be inculcated and naturalised.

Social, economic, and technological changes in the nineteenth century inaugurated new opportunities for, and new ways of, looking which in turn mandated new forms of control. These measures had a dual focus: first, the regulation of the visual environment, which might be considered a form of post-production censorship; and second, the regulation of the viewer, which corresponds loosely to a kind of pre-articulatory regulation in the realm of speech.

Jonathan Crary's seminal work on nineteenth-century visuality is a useful starting point for understanding the exigencies of regulation. Crary challenges traditional narratives of modernity that posit an epistemological rupture with the past with the emergence of experimental modernist art in the late nineteenth century. Instead, he argues that there was a more significant shift earlier in the century away from the Enlightenment model of a rational, disembodied viewing subject to one that acknowledged the physiological and the psychological, and thus the subjective, nature of vision.⁴ The paradigmatic example of Enlightenment vision is the camera obscura, which defines the viewing experience as a rational and disengaged one. Mediated through the camera obscura's machinery, vision is decorporealised and neutral, and the sovereign viewing subject is set in isolation from, but in mastery over, his surrounds. With the shift to a subjective vision, the viewing subject is no longer the objective guarantor of knowledge and, in recognition of the fallibility of bodily optical functions, is itself subject to the investigations of science. Vision, Crary argues, 'rather than a privileged form of knowing, becomes itself an object of knowledge, of observation.'⁵ Optical devices such as the microscope, x-rays, and photography were harnessed for medical and scientific use, both exposing and supplementing the deficiencies of subjective vision even while providing powerful tools for regulation and surveillance by allowing more sophisticated means of measuring and recording the physiology and functioning of the human eye. These

⁴ Crary, *Techniques of the Observer: On Vision and Modernity in the Nineteenth Century* (Cambridge, Massachusetts: MIT Press, 1992); *Suspensions*.

⁵ Crary, *Techniques* 70.

technologies produced ways of organising visual data into a new legibility, which, while placing the object of study under a disciplinary scrutiny, also provided new ways of looking for the observer. Just as the science of sexology and the discourse of degeneration constituted particular sexual and normative subjects, these new optical knowledges produced models of the perceiving subject, and in so doing, reconfigured nineteenth-century understanding of the way in which the visual environment was received. The complexity of visual censorship becomes apparent here: the human and the mechanical eye are simultaneously agents of censorship and potentially dangerous entities to be controlled, and once again, the line between censor and censored becomes blurred.

In addition to this reconfiguration of the viewing subject, there were also substantial changes to the visual environment. With the rise of commodity culture, the urban landscape was irrevocably altered. The impact of advertising in the form of billboards and posters reinforced the idea of the urban space as a visual space and the consumer as a visual consumer. Department stores and shop windows displayed their goods according to a logic of desire and visual enticement.⁶ At issue was the unavoidable visibility of commerce and measures such as the 1889 Indecent Advertisement Act can be seen as attempts to control the visual environment. Lynda Nead goes further to suggest that the 1857 Obscene Publications Act was not so much a response to the explicit nature of pornographic material but to their increasing visibility and accessibility in the flagrant displays in Holywell Street. Obscenity legislation, she argues, ‘focuses on the problem of “seeing” ... [and] seeks to enforce a regime of visibility and to control the casual and indiscriminate possibilities of metropolitan sight.’⁷ Given the visual saturation of displays and advertising, movement through the urban environment itself becomes a form of

⁶ For a discussion of Victorian commodity culture and the visual economy, see Rachel Bowlby, *Just Looking: Consumer Culture in Dreiser, Gissing and Zola* (New York: Methuen, 1985), Andrew H. Miller, *Novels Behind Glass: Commodity Culture and Victorian Narrative* (Cambridge: Cambridge UP, 1995), and Thomas Richards, *The Commodity Culture of Victorian England: Advertising and Spectacle, 1851-1914* (London: Verso, 1991). For a discussion of the female visual consumer in an urban environment, see Deborah Epstein Nord, *Walking the Victorian Streets: Women, Representation, and the City* (Ithaca: Cornell UP, 1995).

⁷ Lynda Nead, ‘Mapping the Self: Gender, Space and Modernity in Mid-Victorian London,’ *Rewriting the Self: Histories from the Renaissance to the Present*, ed. Roy Porter (London: Routledge, 1997) 179.

unsolicited consumption, and attempts to control these modes of consumption must therefore also be measures of spatial control.

In the visual arts, the nineteenth century saw a shift from private ownership to public display, with the opening of the National Gallery in 1824 in Pall Mall, moving to the new location in Trafalgar Square in 1838, the Victoria and Albert (originally as the South Kensington Museum) in 1852, and the National Portrait Gallery in 1856.⁸ Arising from a belief in the civilising potential of culture exemplified in Matthew Arnold's *Culture and Anarchy* (1869), these institutions sought to instill appropriate and productive modes of visual consumption. The space of the gallery became the nexus of both the visual (as the exhibition of visual arts) and the bodily (as a physical space negotiated by its patrons) and regulation of this space entailed attention to both the relationship between the educative and the aesthetic functions of these institutions, as well as the issue of public order. The commercial exploitation of new visual technologies, such as the kaleidoscope and the panorama in the early decades of the century, and cinema in later years, led to similar regulatory anxieties over both the contents of these displays and the convergence of a mass audience.⁹

One way of conceptualising censorship then is to see it as the regulation of visibility. The publishing industry's power to determine what enters the literary sphere discussed in Part One and the trials and discourses discussed in Part Two can be seen in this context. Publishing in the most basic sense refers to the making public, and thus making visible, in print, of certain ideas. Obscenity trials, understood as staged proceedings, delimit a visible space for a regulated debate, even while proscribing—that is, seeking to expunge from visibility—certain utterances or texts. Scientific discourses produce recognisable subjectivities; for instance, the figure of the invert becomes visible in the latter half of the century at the concatenation of medical, psychological, and sociological knowledges.

Part Three deals specifically with the visual realm. Chapter Five looks at the 1877 *Whistler v. Ruskin* libel case in which Ruskin's criticism of Whistler's paintings

⁸ Jonathan Conlin, *The Nation's Mantelpiece: A History of the National Gallery* (London: Pallas Athene, 2006); Giles Waterfield, ed. *Palaces of Art: Art Galleries in Britain 1790-1990* (London: Dulwich Picture Gallery, 1991); Paul Barlow and Colin Todd, ed. *Governing Cultures: Art Institutions in Victorian London* (Aldershot, Hants: Ashgate, 2000).

⁹ For discussion of visual entertainments, see Richard D. Altick, *The Shows of London* (Cambridge, Massachusetts: Belknap Press, 1978).

were alleged to have overstepped the bounds of permissible criticism. In the first section, I discuss the trial in the context of censorship. The second section is divided into two parts: I first consider the charge of libel as a violation of privacy and the implications of the distinction made between public and private in the context of the late-century commercial art world. I then look at Ruskin's political economy of art, to argue that the courtroom contest was also about the value and morality of spending. Section Three examines the case as a contest between two aesthetic philosophies, pitting artist against critic. Whistler propounded his art for art's sake rationale against Ruskin's moral theory of art, both of which were articulated in terms of a superior way of seeing. Thus, in this instance, libel law, which purports to regulate the boundary between the public and the private, was also implicated in more constitutive issues about art, its practice, its value, and its authoritative positions. If both parties accused each other of an attempted censorship—that Ruskin's review sought to suppress the painter's output and that Whistler had exploited libel law to silence the critic—both were also involved in a legitimization contest, vying with each other for superiority in the visual arts.

The Case: *Whistler v. Ruskin*

In the autumn of 1877, at the invitation of proprietor Sir Coutts Lindsay, Whistler exhibited eight paintings at the newly opened Grosvenor Gallery, amongst works by Edward Burne-Jones, G. F. Watts, John Everett Millais, Edward J. Poynter, and Lawrence Alma-Tadema.¹⁰ Ruskin, at this time already ensconced in his public position of 'prophet and lawgiver,'¹¹ reviewed the exhibition for his periodical, *Fors Clavigera*, commenting unfavourably on the Gallery and modern art in general, but reserving the most vitriolic criticism for Whistler's work, specifically, his *Nocturne in Black and Gold*.¹²

¹⁰ The works were: four 'nocturnes': *Nocturne in Black and Gold*, two paintings both bearing the title of *Nocturne in Blue and Silver*, and *Nocturne in Blue and Gold*, and four portraits.

¹¹ Donald M. Murray, 'James and Whistler at the Grosvenor Gallery,' *American Quarterly* 4.1 (1952): 51.

¹² Ruskin takes issue with, amongst other features, the 'poor' upholstery and the grouping of the exhibited works. He praises Burne-Jones, whose work 'is simply the only art-work at present produced in England which will be received by the future as "classic" in its kind.' The efforts of his

For Mr. Whistler's own sake, no less than for the protection of the purchaser, Sir Coutts Lindsay ought not to have admitted works into the gallery in which the ill-educated conceit of the artist so nearly approached the aspect of wilful imposture. I have seen, and heard, much of Cockney impudence before now; but never expected to hear a coxcomb ask two hundred guineas for flinging a pot of paint in the public's face.¹³

Whistler took offence, bringing a suit of libel against Ruskin that was heard in court on 25 and 26 November 1878.¹⁴ The jury gave the verdict to Whistler, but awarded him only nominal damages of a farthing.

Whistler v. Ruskin can be considered in light of controlling the visual field on two counts: as a contest over the legitimacy of art criticism, the case was first and foremost about controlling the nature of artistic discourse, about whose opinion counts, and the terms in which such opinion is articulated. Second, this contest was framed by the ways in which the participants theorised their positions by way of visual perception, both in court and beyond. Central to each argument was the premise that each possessed a more legitimate and more authoritative way of seeing, setting the professional gaze of the practitioner against the erudite gaze of the critic. The case, as Henry James suggests, was 'the talk of the moment,' and the outcome had repercussions in the field of art and art criticism.¹⁵

Interest in the case stems from its controversial nature, a controversy heightened not least because of the ambiguous judgement. Whistler considered the case a triumph, writing to his solicitor that '[m]orally, and in the judgement of all the world—all the world with whom high tone has weight—it is a complete victory.'¹⁶ Whistler is said to have worn the farthing with pride on his watch chain, although some have contended that this was a defiant response to a pyrrhic victory: his

peers in comparison are merely 'forced' eccentricities, 'their imperfections gratuitously, if not impertinently, indulged' (*Works* 19: 158-60).

¹³ Ruskin, *Works* 29: 160.

¹⁴ Whistler was represented by Serjeant-at-law, John Humffreys Parry, while Ruskin retained attorney general Sir John Holker and his junior, Charles Syngé Christopher Bowen. Ruskin was not present at the trial, pleading ill health. The presiding judge was Sir John Walter Huddleston.

¹⁵ Henry James, *The Painter's Eye: Notes and Essays on the Pictorial Arts* (London: Rupert Hart-Davis, 1956) 172. Nicholas Shrimpton calls it a 'landmark in the history of English Aestheticism,' while Linda Merrill contends that the case was 'the most celebrated lawsuit in the history of art' ('Ruskin and the Aesthetes,' *Ruskin and the Dawn of the Modern* ed. Dinah Birch (Oxford: Oxford UP, 1999) 132; *A Pot of Paint: Aesthetics on Trial in Whistler v. Ruskin* (Washington: Smithsonian Institution P, 1992) 1).

¹⁶ Cited in Merrill 205.

financial circumstances suggested that he was in need of the two hundred guineas in damages demanded in the original suit.¹⁷ At the same time, Whistler deftly manipulated the events to his own advantage, transforming even the most acerbic criticism into grist for his mythmaking mill.¹⁸ By contrast, others see the case as a triumph for Ruskin and art criticism and a deterrent to potential litigants, insofar as the outcome demonstrated the futility—in financial terms, at least—of such legal action.¹⁹ Yet Whistler was not deterred from similar action in later years: The *Burlington Magazine* claims suggestively that the witness box was Whistler's 'preferred pulpit.'²⁰ George Du Maurier's *Trilby*, a satire of Aestheticism first published serially in *Harper's*, featured the character of Joe Sibley, said to have been modelled on the figure of Whistler. This character was removed from the 1894 publication in book form after threat of legal action from Whistler.²¹ While it may have been Whistler's 'reputation for all-round litigiousness,' as one critic puts it,²² that forced this excision, the very public nature of Whistler's outrage and the subsequent apology from *Harper's* also consolidated Whistler's anti-establishment image. Others have argued that in the long run, it was Whistler and his aesthetic philosophy which triumphed over the Victorian values represented by Ruskin.²³

¹⁷ Merrill 203-4.

¹⁸ Sarah Burns argues that the trial was 'the catalyst and turning point' in Whistler's career, allowing him firstly to cement his reputation as an artist of note, and secondly, to open a dialogue with his public through his astute manipulation of the press ('Old Maverick to Old Master: Whistler in the Public Eye in Turn-of-the-Century America,' *American Art Journal* 22.1 (1990): 30).

¹⁹ Ruskin's biographer, John Batchelor sees the case as 'a victory for Ruskin to the extent that it had protected freedom of speech for the critic' (*John Ruskin: No Wealth but Life* (London: Chatto and Windus, 2000) 281). Kate Flint claims that '[a]lthough Whistler had emerged the legal victor from the trial, Ruskin had won a moral victory.' Ruskin's reputation and aesthetic precepts were 'left undented so far as the broad mass of the public was concerned' (*The Victorians and the Visual Imagination* (Cambridge: Cambridge UP, 2000) 169).

²⁰ 'Whistler in Retrospective,' editorial, *Burlington Magazine* 136.1099 (1994): 663.

²¹ For an account of the *Trilby* incident, see Leonée Ormond's biography of the Du Maurier (*George Du Maurier* (London: Routledge and Kegan Paul, 1969).

²² Burns 34.

²³ Shearer West claims that Ruskinian precepts were found 'lacking' in the trial ('Tom Taylor, William Powell Frith, and the British School of Art,' *Victorian Studies* 33.2 (1990): 307). Peter Stansky argues that '[t]wo of the Victorian conceptions of life and art were seriously weakened by the trial: work and "finish"' (Rev. of *A Pot of Paint: Aesthetics on Trial in Whistler v. Ruskin*, by Linda Merrill, *Journal of Interdisciplinary History* 24.3 (1994): 537). Stuart Culver suggests that Whistler successfully used libel law 'to limit the authority of the nation's leading art critic' ('Whistler v. Ruskin: The Courts, the Public, and Modern Art,' Burt, *Administration* 151). Andrew Leng argues that Ruskin's scurrilous attack on Whistler, 'an unequivocally ruthless attempt to terminate the artist's career,' and the subsequent trial, signaled Ruskin's degeneration from Victorian sage to hack writer ('Letters to Workmen? *Fors Clavigera*, Whistler vs. Ruskin and Sage Criticism in Crisis,' *Prose Studies* 24.1 (2001): 65).

Ruskin himself saw the judgement as an affront, resigning from his post as Slade professor in protest against the muzzling of his critical voice.²⁴

My interest in *Whistler v. Ruskin*, regardless of who might be considered the ultimate victor, lies in how it represents a contest between two key figures in the visual arts and their respective aesthetic philosophies. This was a struggle over the definition of art and aesthetic jurisdiction carried out, despite Ruskin's conspicuous absence, over the two days of the trial. Indeed, the contest extended beyond the period of the trial, firstly through Whistler's post-trial machinations, provocations widely broadcast by the popular press to an avid readership, and secondly, because the issues raised about the nature of art and ways of seeing tapped into extant debates in late-century cultural life. In this sense, while recent readings view the case as a presaging of twentieth-century art, seeing in Whistler's aestheticism an incipient modernism, the case can equally be placed firmly within a nineteenth-century context.²⁵ As Elizabeth Prettejohn states, *Whistler v. Ruskin* emerged from and referred back to debates on the place of professional criticism since the 1860s.²⁶ I will argue below that the trial saw the confluence of several issues of importance in the visual arts: the outrage over the pricing of Whistler's nocturnes centred on the question of value and the nature of the art market; Whistler's distinctive artistic practice challenged prevalent ideas about the creative process and the constitutive elements of art; and the contest over priority of opinion raised questions about authority and sources of legitimation. Whistler accused Ruskin of a capricious abuse of the critic's power to obstruct the sale of his works and to ridicule his status as artist whilst Ruskin counter-argued that Whistler had harnessed the court of law as a private censorial agent to silence legitimate criticism.

Henry James, in his capacity as art critic for the *Nation*, encapsulated the public's ambivalence towards the situation. Ruskin's review 'quite transgresses the decencies of criticism' yet Whistler's work was undeniably 'so very eccentric and

²⁴ In a letter written to H. G. Liddell, Dean of Christ Church, Oxford, Ruskin claimed that '[i]t is not owing to ill-health that I resign, but because the Professorship is a farce, if it has no right to condemn as well as to praise' (Ruskin to H. G. Liddell, 28 November 1878, *Works* 29: xxv).

²⁵ Merrill sees the case as 'a critical hour in the evolution of modern art' (6). Stuart Culver more specifically locates in *Whistler v. Ruskin* the nascence of what he calls the 'modernist approach to legitimating art,' that is, an approach which based the claims of artistic autonomy on formal qualifications ('*Whistler v. Ruskin*' 151).

²⁶ Elizabeth Prettejohn, 'Aesthetic Value and the Professionalization of Victorian Art Criticism 1837-78,' *Journal of Victorian Culture* 2.1 (1997): 90.

imperfect.’²⁷ In any event, James was adamant that the courtroom was an inappropriate setting for aesthetic discussion. The trial ‘was a singular and most regrettable exhibition,’ with a ‘crudity and levity [that] were decidedly painful.’²⁸ Few things, he concluded, ‘have lately done more to vulgarize the public sense of the character of artistic production.’ Questions of aesthetics are trivialised within the confines of the courtroom, resulting in a shameful spectacle to the detriment of art. During the trial itself, when the question of submitting Whistler’s paintings as evidence arose, Whistler’s counsel Serjeant Parry disputed the suitability of the courtroom as an exhibition space, voicing concern over physical conditions such as appropriate lighting. James’s and Parry’s protests implicitly question the compatibility of art and the law, and whether the courtroom is a suitable space—both discursive and physical—for aesthetic displays. As I argued in Part Two, the issues of compatibility and the limits of the law lie at the centre of nineteenth-century censorship. Yet as Merrill astutely points out, the trial provided both parties with ‘a priceless opportunity’ to expound their theories in public—Ruskin through the proxy of his legal representatives—‘uncensored by uncomprehending critics.’²⁹ Thus, although the defence’s objection to what it perceived as an abuse of libel law intimated a sense of the violence of law—the idea that law persecutes, represses, and incarcerates—the law in this instance functioned in a more regulatory manner, clearing a space for a public elucidation and dissemination of aesthetic ideas.

Nonetheless, the principles of freedom of expression and, conversely, the dangers of censorship, were undercurrents to the case. The defence claimed that a litigious climate leads to the silencing of the critic, who, once ‘feared and respected,’ is now unable to ‘express his opinion lest he have brought against him an action for damages.’³⁰ While the plaintiff, citing Ruskin’s intemperate language and tone,

²⁷ James, *Painter’s Eye* 174. James’s attitudes towards Whistler’s art underwent significant changes. In an 1877 review, the self-referential nature of the works merits a somewhat dismissive ‘they do not amuse me.’ The following year, he concedes that they ‘are pleasant things to have about’ if considered merely as items of decoration or ornament. Yet by 1897, James gives only effusive praise: Whistler’s works are ‘one of the finest of all distillations of the artistic intelligence’ (*Painter’s Eye* 143, 165, 258).

²⁸ James, *Painter’s Eye* 173.

²⁹ Merrill 217.

³⁰ Merrill 167. As the official transcript of the case was not preserved, I will be referring to Linda Merrill’s reconstructed transcript, compiled through press accounts and court notes. References to the court transcript will be given in-text.

alleged that his words transgressed the bounds of legitimate criticism, Ruskin's counsel Bowen claimed that Ruskin's commentary was both 'fair and honest' (182). The terms of 'fair and honest' criticism as set out by Bowen seemed clear enough. Criticism is legitimate as long as it is not motivated by 'personal malice':

[The critic] may say what he likes and what he chooses, provided he does so honestly, without traveling out of the subject matter before him, and provided what he says is a fair and honest expression of opinion. (182)

As a 'public critic,' it is no less Ruskin's professional duty than it is his moral obligation to the public, and to art itself, to express his views without acceding to stylistic niceties, and the use of ridicule is sanctioned in fulfilling this task (182). Thus, while Ruskin's review may be 'a severe and slashing criticism,' even 'ridicule and contempt,' it is nonetheless 'his honest opinion' to which he is entitled (164).³¹ Whistler's suit was presented as an act of censorship, an attempt to 'control Mr. Ruskin's pen through the medium of a jury' and thus to 'paralyze his hand' (171): a spurious charge such as Whistler's, the defence argued, strikes at the very core of the critic's duty. In Chapter One, I discussed the discursive purchase and polemical utility of allegations of censorship and these processes are seen in operation here. Against the defence's counter-accusations, Whistler presented his entire project as one of liberation, his stylistic innovations a rupturing of archaic and stultified artistic traditions of which Ruskin's assault was seen to exemplify.³² In this instance, utilising a similar vocabulary of liberal principles as the defence, Ruskin, referred to by Parry in court as 'the man who sits there as a despot,' is presented as a capricious tyrant, silencing the artist by flagrantly depriving the artist of his livelihood (187).

³¹ The issue of what constitutes an *actionable* libel must be considered in two parts, as was further explained by Lord Huddleston: 'As it stands by itself, the criticism is calculated to hold Mr. Whistler up to ridicule and contempt, and so far it would be libelous. The question is whether it comes within the license of privileged communication, and that is a matter for the jury. A critic ought to be wise enough to form a right judgment and bold enough to express it' (161). It is then up to the defence to prove that the defamatory material was fair and bona fide criticism rather than a malicious personal attack.

³² The image of Whistler as liberator has since been perpetuated by his supporters. In a hagiographic treatment, for instance, Alfred Werner in the Introduction to Whistler's *Gentle Art* states that Whistler 'helped liberate English art not only from the literary predilections and sham medievalism of the Pre-Raphaelites but also from the equally loathsome prosaic realism of the anecdotal pictures' (Introduction, *The Gentle Art of Making Enemies*, by James Abbott McNeill Whistler (1892; New York: Dover, 1967) xxii).

Libel and the Regulation of Public Discourse

The charge of libel is predicated on the strict separation of public and private, between the public status of the artwork and the private—and it was assumed, the inviolable—region of the artist's life, as Huddleston explained to the jury. Yet despite allegations by the plaintiff that Ruskin's words exceeded the limits of fair criticism and protestations otherwise by the defence, both parties in fact traversed these boundaries where expedient. The defence argued that the artist was a public figure, and his entry into the public domain entailed a waiving of certain rights. 'If Mr. Whistler disliked ridicule,' Holker reasoned, 'he should not have subjected himself to it by publicly exhibiting such productions' (169). The approbation of celebrity brings with it a set of obligations and while the artist is feted by his public, he is also accountable to it.

Arguing that Ruskin's attack was motivated by malice and was thus an actionable trespass, Parry turned Ruskin's moralism back onto Ruskin: where Ruskin accused Whistler of 'Cockney impudence,' Parry countered by calling Ruskin's words 'ungentlemanly' (140); where Ruskin berated Whistler's 'wilful imposture,' Parry charged Ruskin with 'a pretended criticism of art, which is really a criticism upon the man himself' (185-6). In his summation, Parry exhorted the jurors 'to consider the character of the great writer.' 'Mr. Ruskin is great as a writer,' he conceded, 'but not as a man. As a man, he has degraded himself' (185). The libellous situation is here replicated in Parry's words: if Ruskin's review—the critic's work—was at fault, in calling on the juror to consider the 'character' of the critic, in impugning Ruskin's gentility, the plaintiff has infringed in like manner on the personality of the accused. The distinction between the public writer and the private man, between the critic's words and the critic's person, is blurred once again.

At a more fundamental level, Ruskin's art theory itself militated against the separation of public and private: 'The art of any country is the exponent of its social and political virtues,' Ruskin states in his inaugural lecture at Oxford, and the highest and noblest arts 'relate to us the utmost ascertainable truth respecting visible things and moral feelings.'³³ For Ruskin, there is a contiguous relationship between art and the artist, between the artist and society: moral art comes from a moral artist, who in

³³ John Ruskin, *Lectures on Art* (Oxford, 1870) 26, 36.

turn represents a moral society. Ruskin thus sets in motion a synecdochical sequence that traverses the boundaries of the private and the public. To speak of the artwork is of necessity a comment on the artist and a comment on his society; conversely, an attack on the work is also one on its producer. Thus, the sketchiness and absence of detail in the *Nocturnes* were evidence of indolence and a want of care, lack of finish was intimated as a lack of fortitude, while the ignoble subject of Cremorne Gardens suggested an insalubrious character.

In his *Lectures on Art*, Ruskin extols the modesty of the greatest artists, those who are ‘unconscious of their superiority to others.’³⁴ There was a conscious performativity to Whistler’s public persona which not only violated the norms of appropriate behaviour according to Ruskin, but also deliberately confounded the distinction between self and work.³⁵ According to a recent critic, the ‘trouble with Whistler is that his personality ... is so colourful it overshadows his oeuvre,’³⁶ but this comment misses the point that Whistler’s personality and Whistler’s oeuvre are entangled to such a degree that it is difficult to separate these categories: indeed, Whistler’s personality was in many ways part of Whistler’s oeuvre. As G. K. Chesterton suggests, citing Max Beerbohm, Whistler ‘really regarded Whistler as his greatest work of art.’³⁷ Whistler adeptly exploited the new informational resources such as press-clipping services and the tools of New Journalism for self-promotion, creating and consolidating a public persona with the aid of interviews, celebrity profiles, illustrations, and photographs. Just as the butterfly monogram on his canvases became his pictorial signature, so too were other visual and theatrical signifiers exploited—those of dress, gesture, mannerism, and verbal style—to create the recognisable entity, the recognisable commodity even, of ‘Whistler.’ First published by Whistler in 1890, *The Gentle Art of Making Enemies*, comprising of his

³⁴ Ruskin, *Lectures* 48.

³⁵ Much has been written on Whistler’s cultivation of image in the context of the late-century art world. Andrew Stephenson examines Whistler’s ‘self-styling’ and astute negotiation of tropes of masculinity in the context of Aestheticism (‘Refashioning Modern Masculinity: Whistler, Aestheticism and National Identity,’ *English Art 1860-1914: Modern Artists and Identity*, ed. David Peters Corbett and Lara Petty (Manchester: Manchester UP, 2000) 140); Robert Slifkin looks at how Whistler’s aesthetics were manifested in both his oeuvre and his deliberately constructed persona (‘James Whistler as the Invisible Man: Anti-Aestheticism and Artistic Vision,’ *Oxford Art Journal* 29.1 (2006)).

³⁶ Muriel Julius, ‘England at Last Honours Whistler’s Art,’ *Contemporary Review* 266.1548 (1995): 19.

³⁷ Cited in Burns 47.

version of the trial, his 'Ten O'Clock' lecture, and a collection of press cuttings, can be seen in this context as a project of deliberate self-fashioning, transforming the ambiguous result of the trial into an opportunity for self-advertisement. This is not to trivialise Whistler's aesthetics nor his work, but to recognise that the two processes of self-advertising and painting were mutually validating ones.³⁸ Given the commodification of the private, it is not surprising that there should be confusion over Whistler's personality and oeuvre. Marketed on a mass scale, the intimacy that characterises the realm of private interrelations is reified, proffered to every periodical subscriber and every reader of the interview. The artist's private life becomes a commodity that is endlessly reproduced and circulated among his public, consumed voraciously by acolytes and detractors alike.

Whistler the consummate performer is reminiscent of that other flamboyant figure of British Aestheticism, Oscar Wilde, and, read retrospectively, elements of this trial seem to anticipate Wilde's later ones. In both instances, the courtroom became a kind of performance space in which the participants consciously played to the onlookers. In the 1895 trials, Wilde's person was attacked through his writings: literary decadence was proffered as evidence of moral decrepitude. Queensberry's counsel sought to indict Wilde by a metonymic logic that first determined that unspecified acts and relations depicted in his works were 'sodomitical' in nature, then labelled the text itself 'sodomitical,' before extrapolating from this designation to an allegation against its author, following the original slight on Queensberry's visiting card, 'For Oscar Wilde posing somdomite [*sic*].'³⁹ Here, the reverse was true, with Whistler's eccentricity used to diminish his works: frivolity of character was presented as proof of inconsequentiality of oeuvre.⁴⁰ Yet where Whistler's trial resulted in something of a publicity coup, Wilde's was, of course, his downfall. There is much speculation over why Wilde was pursued so relentlessly, but in the context of a commercial self-fashioning, it would seem that Whistler more

³⁸ As Burns suggests, '[h]is personality gave visibility to his art. Conversely, ... his art by its perceived quality gave sanction to his eccentricities' (39).

³⁹ Merlin Holland, *Irish Peacock and Scarlet Marquess: The Real Trial of Oscar Wilde* (London: Fourth Estate, 2003) xiv.

⁴⁰ Shearer West argues that the way Whistler harnessed the strategic potential of laughter, both during the trial and in his general 'comic style,' was characteristic of Aestheticism, citing as other exemplars, Wilde and Beardsley ('Laughter and the Whistler/Ruskin Trial,' *Journal of Victorian Culture* 12.1 (2007): 47).

successfully negotiated the tenuous distinction between marketable and actionable transgression.⁴¹

This astuteness leads Sarah Burns to claim Whistler as ‘the quintessential nineteenth-century man,’ possessed of the mercurial nervousness of the late-century artist, yet successfully sidestepping the pathologising criticisms associated with these eccentricities.⁴² This is not entirely true: although lacking Nordau’s vitriol, for the defence’s strategy was a trivialising mockery rather than pathologising condemnation, Holker’s words in court presaged the degenerationist discourse that was soon to pervade the public consciousness:

There is at present a mania for what is called Art. It has become a kind of fashion among some people to admire the incomprehensible and to say of something that cannot be understood, “It is exquisite.” ... This is not a mania that should be encouraged. (168)

Holker’s terminology anticipates *Degeneration*’s pathologisation of cultural forms, their practitioners, and their followers. Nordau warns against the pseudo-Art perpetuated by degenerate subjects and its posse of hysterical acolytes; Holker dismisses as a ‘mania’ the feckless allegiance to unintelligible productions. Holker mocks the elitist pretensions of Whistler’s claim to a privileged artistic insight: ‘He sees things we cannot see and hears artistic voices we cannot hear’ (168); for Nordau, the mystic’s degeneracy manifests in just such sensuous disorders: the mystic ‘hears and sees as real, things which for the sane man are non-existent.’⁴³ While the mystic embraces the obscure and the inchoate, the rational mind strives for clarity and differentiation, with the goal of ‘impart[ing] the greatest sharpness and clearness to all representations.’⁴⁴ The objections to Whistler’s renderings of night might thus be understood in the context of Nordau’s dichotomy between the

⁴¹ For possible reasons for Wilde’s prosecution, see Foldy 21-30; Richard Ellmann, *Oscar Wilde* (London: Hamish Hamilton, 1987) 423-4. For more general discussion of Wilde’s relationship with the literary marketplace, see Regenia Gagnier, *Idylls of the Marketplace: Oscar Wilde and the Victorian Public* (Stanford: Stanford UP, 1986); Josephine M. Guy and Ian Small, *Oscar Wilde’s Profession: Writing and the Culture Industry in the Late Nineteenth Century* (Oxford: Oxford UP, 2000).

⁴² Burns 42, 46-7.

⁴³ Nordau, *Degeneration* 46. On the topic of the visual arts, Nordau attributes new trends such as Impressionism to ‘visual derangements’ in the optical physiology of the degenerate and hysterical painter (*Degeneration* 27). Thus, for instance, the absence of a firm outline is not affectation but a consequence of *nystagmus*, or a ‘trembling of the eyeball.’

⁴⁴ Nordau, *Degeneration* 59.

pathological attraction of ‘a black heaving mass’ and the ‘wholly luminous’ nature of rational thought.⁴⁵ In his early championing of Turner, Ruskin had set up a similar opposition, holding up Turner’s ability to present shadows with exactitude and sharpness of form against crepuscular tones and undifferentiated shapes of the Old Masters. While Nordau’s critique is articulated in medico-psychological terms, Ruskin’s is focused on socio-moral concerns, yet the binary of light and darkness remains constant.⁴⁶ Reading the trial in conjunction with *Degeneration* thus aligns the role of Ruskin with that of Nordau as critic-censor, and conversely, also reinforces the point made earlier about Nordau as literary-art critic.

With the ascendancy of the cult of celebrity, it is not surprising that attempts to control the artist’s profession should focus on the personality of the artist. Ruskin’s expostulation against Whistler’s ‘Cockney impudence’ is one such comment on the artist’s person; the second part of the alleged libel referring to the *Nocturne*’s two hundred guinea asking price points to differences in attitudes towards the value and the valuing of art. According to Ruskin, in demanding this inflated price for his creations, Whistler was perpetuating a fraud on the public. If the technical execution of Whistler’s works contravened the precepts of Ruskin’s early art theory and his eccentricity derogated from the gravitas of the profession, then the two hundred guineas demanded for the *Nocturne* offended Ruskin’s labour theory of art. These ideas are elaborated in his 1857 lectures on the Political Economy of Art, later published as ‘A Joy Forever,’ in which he expounds on the questions of value and recompense. Ruskin argues that contemporary usage has misleadingly restricted the term ‘economy’ to the narrow sense of parsimony—‘merely sparing or saving’—thus occluding its corollary meaning of spending.⁴⁷ Economy is therefore redefined as the ‘art of managing labour,’ which, in the context of artistic labour, refers to the producing and employing of the labourer (the ‘man of genius’), and how best to optimise his artistic output through judicious preservation and distribution.⁴⁸ This

⁴⁵ Nordau, *Degeneration* 59.

⁴⁶ Eileen Cleere places Ruskin’s critique in the context of mid-century sanitation reform (‘Dirty Pictures, John Ruskin, *Modern Painters*, and the Victorian Sanitation of Fine Art,’ *Representations* 78 (2002)).

⁴⁷ Ruskin, *Works* 16: 19.

⁴⁸ Ruskin, *Works* 16: 18, 29.

emphasis on ethical spending as well as saving brings the issue of 'fair price' to the fore, an issue of primary importance in the libel trial as well.⁴⁹ In his opening statement, Holker stated that his client demands 'a laborious and perfect devotion to art and holds that an artist ought to entertain a desire not simply to gain a large sum for his work, but that he should struggle to give the purchaser something worth the money paid' (164). The economic transactions that buttress the late-century art world are here given a moral slant, recalling the ethical framework of Ruskin's discussion of political economy. For Ruskin, good management leads to abundance while poor management to profligacy and decline, and this binary of wise and imprudent spending aligns to a distinction between industrious endeavour and indolent behaviour, between 'providence' and 'waste,' 'labour' and 'lasciviousness,' 'subordination' and 'wilfulness.'⁵⁰

Despite these stark oppositions, the terms of discussion on the issue of artistic value are less straightforward, complicated by Ruskin's different approaches towards old masterpieces and contemporary art, the promotion and preservation of each requiring a separate strategy. The great works of the past are, 'in the true sense of the word, priceless,' and in exhorting his audience of moneyed industrialists to their custodial obligations, Ruskin argues that the 'proper price is simply that which it is necessary to give to get and to save them.'⁵¹ Monetary value is not, indeed, cannot be, conferred onto the work in and of itself; the naming of a price is merely a pragmatic process to secure the work's preservation and Ruskin sanctions a virtually limitless outlay in pursuit of this goal: 'If you can get them for fifty pounds, do; if not for less than a hundred, do; if not for less than five thousand, do; if not for less than twenty thousand, do.' For new works, by contrast, Ruskin advocates a more

⁴⁹ Ruskin, *Works* 16: 86.

⁵⁰ Ruskin, *Works* 16: 19. Christopher Bliss argues that Ruskin's moral focus, while providing a novel approach to political economy, compromises the 'clearheadedness' of his essay. Political economy, he argues, conceived as a moral problem, allows the critic to bypass conveniently the practicalities of implementation and leads ultimately to a lack of conceptual coherence ('Ruskin's Political Economy of Art,' *Oxford Art Journal* 2 (1979): 38). Willie Henderson makes similar allegations of an overall lack of cohesion, not just in this particular essay, but in Ruskin's political economy as a whole (*John Ruskin's Political Economy* (London: Routledge, 2000)).

These comments are not without basis, but one should bear in mind that Ruskin's writings were not intended as an overarching economic theory. Indeed, it was the mechanistic and, to him, erroneous, models of classical political economy that he set out to replace with familiar domestic and paternalistic models. It is thus not surprising that his writings do not conform to the paradigms and idioms of political economy. See note 58 below.

⁵¹ Ruskin, *Works* 16: 77.

cautious approach to pricing. On the one hand, a reasonable investment is required for the production of good art.⁵² '[P]erfect work can't be hurried, and therefore it can't be cheap beyond a certain point,' and conversely, 'art which is produced hastily will also perish hastily.'⁵³ On the other hand, the dangers of overpricing are equally devastating: 'the bribe of wealth and honour warps [the artist] from his honest labour into efforts to attract attention; and he gradually loses both his power of mind and his rectitude of purpose.'⁵⁴ Given that the intrinsic value of art cannot be translated into monetary terms and that the temptation of extravagant pecuniary rewards corrupts the artist's endeavours, for living artists, a 'just' or 'fair' payment is the equitable recompense for time expended. A true artist will work 'exquisitely' when provided with an 'easy competence,' with 'bread and water and salt.'⁵⁵

Whistler's suit recalls the terms of George Moore's attack on Mudie. Resentful of the librarian's stranglehold on the literary field, Moore alleged a kind of market censorship on Mudie's part. Similarly, counsel for the plaintiff here contended that Ruskin's review impinged adversely on Whistler's livelihood.⁵⁶ But where Mudie's censorial powers came from an opportunistic harnessing of an expanding market, the same market forces which later ousted Mudie from the literary field, Ruskin's attack on Whistler is encompassed within a condemnation of late-century capitalism as a whole. His ruminations on fair price are a critique of the traffic in cultural capital in which the artwork itself becomes lost:

The price of a picture by a living artist never represents, never can represent, the quantity of labour or value in it. Its price represents, for the most part, the degree of desire which the rich people of the country have to possess it. Once get the wealthy classes to imagine that the possession of pictures by a given artist adds to their "gentility," and there is no price which his work may not immediately reach, and for years maintain; and in buying at that price, you are not getting value for your money, but merely disputing for victory in a contest of ostentation.⁵⁷

⁵² In line with other cultural commentators of his time, as say, George Gissing, Ruskin intones against cheap and ephemeral literature as well as art.

⁵³ Ruskin, *Works* 16: 42, 41.

⁵⁴ Ruskin, *Works* 16: 83.

⁵⁵ Ruskin, *Works* 16: 83, 84.

⁵⁶ Whistler testified that he had not been able to sell a painting at a comparable price since the publication of Ruskin's criticism, a point that was reiterated by Parry in his summation (Merrill 143, 184).

⁵⁷ Ruskin, *Works* 16: 86.

For Ruskin, the capitalist venture, predicated on the model of the selfish economic man, is merely a 'game of wealth,' and the escalating prices bolstered by supply and demand are not a triumph for art but for the 'intelligent dealer' and the market.⁵⁸ Ruskin's attempt to control the conditions of exchange is an attempt to shift the market away from the imperative of monetary profit to his conception of good management. As such, the struggle is as much about the terms of political economy as art criticism and practice. Whistler doubly violates Ruskin's economic dicta: his ability to 'knock one [painting] off' in a couple of days, to use Holker's derisive terms (147), is proof of hasty production; the outrageous price tag for these works attests to the moral failings of avarice and vanity. The plaintiff disputed these charges with Parry's claim that Whistler 'is a conscientious, hard-working, and industrious artist' (187). These words are taken from Ruskin's moral vocabulary, but Whistler himself challenged Ruskin's understanding of these key terms. When asked by Holker if it was the labour of two days for which he charged two hundred guineas, Whistler famously answered, 'No. I ask it for the knowledge I have gained in the work of a lifetime' (148).⁵⁹ Elsewhere, Ruskin focuses as much on the nature of labour as on the quantity expended.⁶⁰ Here, however, the 'laborious and perfect devotion' Ruskin stipulates as fair exchange for purchase price gauges industry as a function of time invested (164).⁶¹ Whistler offers an alternative understanding of industry as intellectual input that is cumulatively amassed, the value of which cannot be calculated in direct temporal correlation.⁶²

⁵⁸ Ruskin, *Works* 16: 88. Ruskin challenges the assumption in Adam Smith's model that competition results in a fortuitous harmony: 'All enmity, jealousy, opposition, and secrecy are wholly, and in all circumstances, destructive in their nature—not productive; and all kindness, fellowship, fellowship, and communicativeness are invariably productive in their operation,—not destructive' (*Works* 16: 95-6).

⁵⁹ Whistler's witness, Albert Moore, echoed this defence, claiming that 'money is paid for the skill of the artist, not always for the amount of labor expended' (159).

⁶⁰ See, for instance, *The Stones of Venice* in which Ruskin sets up an opposition between the creative and revitalising work of the Gothic artist and the repetitive and dehumanising nature of mechanical labour.

⁶¹ In the Preface to Volume Three of *Modern Painters*, Ruskin claims that truth in art can be ascertained through 'time and labour.' Already at this early stage, we can see that the two concepts are yoked together for Ruskin (*Works* 5: 4). Caroline Levine goes further to call Ruskin's mode of realism a '*laboring aesthetic*,' insofar as it demands a rigorous training of the eye and study of nature ('Visual Labor: Ruskin's Radical Realism,' *Victorian Literature and Culture* 28 (2000): 75).

⁶² Robin Spencer directs attention to a passage from Joshua Reynolds's *Discourses*, a copy of which Whistler's father had given him early in his career: 'I wish you to be persuaded, that success in your art depends almost entirely on your own industry; but the industry which I principally recommended, is not the industry of the hands, but of the mind' (cited in Robin Spencer, 'Whistler's Early Relations

The jury's task in determining the limits of criticism implied a judgement on the issue of price and payment. Henry James makes joking reference to the trivial value accorded Ruskin's words, speculating on Ruskin's displeasure at 'finding that the fullest weight of his disapproval is thought to be represented by the sum of one farthing.'⁶³ Commentators since have remarked that this judgement reflects the jury's refusal to assign a monetary value to the work of art. For Stuart Culver, the case was a victory for Whistler to the extent that art established its independence from 'bourgeois notions of meaning and value, an independence so absolute that the painter's work was dismissed as essentially without economic value.'⁶⁴ Yet as is evident from Ruskin's art economy, this refusal to assess the work of art in economic terms is not far from Ruskin's own position. His argument with the market is not with spending per se, but with spending in the form of an empty and unproductive consumerism. The price of the work of a living artist such as Whistler adheres to market forces pandering to a self-gratification which, in its solipsism, is just such an inward-oriented consumerism. For Ruskin then, aesthetic and market value are not commensurate.

The Question of Authority: The Artist v. the Critic

If Ruskin the art economist put forth an ideal of ethical consumption in the marketplace, Ruskin the art critic sought to promote an ethical visual consumption in the gallery. In his instructions to counsel, Ruskin explains and justifies his allegedly libellous words according to his conception of the critic's function. The art critic's task, like that of the literary critic, is 'to recommend authors of merit to public attention, and to prevent authors of no merit from occupying it.'⁶⁵ The critic's role is thus a mediatory and discriminatory one, and as such, recalls Froude's exposition of

with Britain and the Significance of Industry and Commerce for His Art. Part I.' *Burlington Magazine* 136.1093 (1994): 223). Spencer cites the above in support of his claim that industry, both in the sense of a character trait and that of manufacturing, played an important role in Whistler's career, but the distinction between an industry of the mind and that of the hand is also salient in the context of *Whistler v. Ruskin*.

⁶³ James, *Painter's Eye* 174.

⁶⁴ Culver, 'Whistler v. Ruskin' 152. Prettejohn takes a slightly different view, arguing that the minimal compensation implies a refusal to translate Whistler's artistic reputation into financial terms ('Aesthetic Value' 90).

⁶⁵ Ruskin, 'Ruskin's Instructions to Defense Counsel,' appendix, *Pot of Paint*, by Merrill, 289.

a constructive censorship that filters and crystallises the best of the (literary) arts for posterity. Ruskin draws a surprising analogy between the functioning of law and the functioning of the critic, claiming that ‘the Bench of honourable Criticism is as truly a Seat of Judgment as that of Law itself, and its verdicts, though usually kinder, must sometimes be no less stern.’⁶⁶ There is a placatory tone in these words, with Ruskin conceding that the law might appropriately be used to suppress malicious criticism: such impugnation if ‘repressed by the care and acumen of British Law, ... would be well alike for the dignity of Literature and the interests of Art.’ The alignment of the two also serves to claim for the critic some of the authority invested in the law and therefore vindication for his ‘stern’ words. Holker for the greater part ignored Ruskin’s brief, but retained and emphasised the constitutive role of criticism in the arts, asserting that ‘[i]f art is to live and flourish, so must criticism, for no artist can obtain fame except through criticism’ (163). The vitality of the arts and thus, the livelihood of its practitioners as well, depend on criticism. Criticism is here accorded a status on par with, if not greater than, that of art itself: the artist produces the work of art; criticism in this formulation produces the category of art.

On his part, Whistler argued that the critic is a needless mediation between art and its audience, indeed, an intervention harmful to art itself. The critic’s knowledge, acquired at a remove, is inferior to that of the practitioner, and criticism is thus a secondary and parasitic profession: ‘I hold that none but an artist can be a competent critic. It is not only when a criticism is unjust that I object to it, but when it is incompetent’ (148). Whistler called into question not just the propriety of Ruskin’s words, but the authoritative platform from which Ruskin speaks. Enshrining praxis over scholarship, Whistler fuses the functions of critic and artist. He was even more scathing in his post-trial pamphlet, ‘Whistler v. Ruskin: Art and Art Critics’: ‘a life passed among pictures makes not a painter—else the policeman in the National Gallery might assert himself ... Let not Mr. Ruskin flatter himself that more education makes the difference between himself and the policeman when both stand gazing in the Gallery.’⁶⁷ It would seem that Ruskin’s identification with the law has unwittingly redounded on him, and, in Whistler’s caustic comparison,

⁶⁶ Ruskin, ‘Instructions’ 290.

⁶⁷ Whistler, *Gentle Art* 26-7.

has been demoted from a moral-cultural guardianship to a less exalted patrol.

Whistler's hostility towards art criticism bespeaks an anxiety about the encroachment of the literary onto the visual arts. The libel suit, Whistler claims, was not a personal vendetta between two individuals, but a 'war,' one fought between the brush and the pen, between artist and critic.⁶⁸ Citing Ruskin and Sidney Colvin as *littérateurs* deracinated, Whistler derides the 'madness' of entrusting institutions of art in the hands of 'the readiest writer or wordiest talker.'⁶⁹ From this perspective, Whistler's libel charge can be seen as an attempt at a violent sundering of the sister arts in face of the loss of autonomy threatened by the colonising literary force.

If the ostensible topic debated in court was the critic's right to voice his opinion, underlying this contest were more intrinsic issues to do with the concept of art itself, its definition and its discourses. Expert witnesses testified for both sides, each with his own conception of art whether to discredit or to affirm Whistler's standing. While the presentation of witnesses followed standard courtroom procedure with each witness introduced by an elaboration of credentials, this process also mirrored developments in art criticism. Elizabeth Prettejohn identifies a 'bifurcation' in art criticism from around the 1860s, when there emerged a professionalised form of criticism in reaction to the more generalist modes prevalent at the time.⁷⁰ Against an art criticism founded on shared cultural values which judged paintings according to their narrative content, this new professional criticism drew on artistic criteria for judgement, bolstered by an exhaustive knowledge of art history and theory. Hitherto, criticism had largely been anonymous, anonymity understood to symbolise the universality of the opinion voiced; professional criticism by contrast gained legitimacy from the erudition of the critic and the critic's name thus became source and guarantor of authority. The rise of the expert critic, one who is no longer representative of lay opinion but purveyor of specialised knowledge, is analogous to that of the expert witness in court, and in this instance, the two figures converge.⁷¹ Significantly, even Whistler, with his meticulously crafted persona of the dandy

⁶⁸ Whistler, *Gentle Art* 25.

⁶⁹ Whistler, *Gentle Art* 33. Ruskin had been appointed Slade professor of Fine Art at Oxford in 1870 and Colvin Slade professor at Cambridge in 1873.

⁷⁰ Prettejohn, 'Aesthetic Value' 73. See also Flint, *Victorians and the Visual Imagination*.

⁷¹ While there were tensions between the different modes of criticism, they co-existed, if uneasily so, with generalist criticism retaining its popularity in mass circulation newspapers while professional criticism dominated the more exclusive publications.

genius, acceded to these conventions, to the extent that he established his credentials as a serious artist, under direct examination by his counsel, by detailing his education and exhibition history, his past sales and patrons, and his associations with institutions of note, such as the Royal Academy, the Parisian Salon, the British Museum, and Windsor Castle.

In following these testimonies, it becomes clear that each witness had his own conception of what constitutes art, in terms of subject matter, its treatment, and the technical processes involved. Ruskin's witnesses put forth the idea that 'finish' is vital in a work of art.⁷² Conceding Whistler's skill in colour, they nonetheless argue that his works were deficient in form, composition, and detail, a lack which disqualified them as 'serious work[s] of art' (173). These were 'unfinished beginnings of pictures ... in the nature of sketching,' and accorded a minor competence as decorative art, allied more to wallpaper than pictures (180).⁷³

Testifying in support of Whistler, William Rossetti proffered an alternative conception of art, defined in terms of intentions. For Rossetti, Whistler's work can legitimately be considered art '[b]ecause it represents what was intended. It is a picture painted with a considerable sense of the general effect of such a scene and finished with considerable artistic skill' (157). Finish is discarded as a criterion, since the work as it stands fulfills Whistler's aesthetic intentions.⁷⁴ Tonal nuance in this instance is a realisation of the artist's vision rather than that which takes disproportionate attention away from technical finish. The artist Albert Moore, arguably Whistler's strongest witness, asserted without hesitation that Whistler's works are the '[m]ost consummate art,' succeeding in the 'extraordinary' task of painting the air (159, 158). When asked by Holker whether he found 'eccentricity' in Whistler's paintings, Moore replied, 'I should call it "originality"' (159). If the

⁷² See testimonies from Edward Burne-Jones, William Powell Frith, and Tom Taylor. The issue of lack of finish was brought up by Burne-Jones and not part of Ruskin's original critique. Indeed, Ruskin's opposition to sterile imitation would suggest that finish, understood as meticulous attention to detail, is far from his artistic criteria. David Craven reconciles this apparent discrepancy by arguing that Ruskin invokes two senses of the word 'finish': technical finish, referring to an emphasis on detail, and conceptual finish, referring to 'intellectual associations,' and it is in the latter, Craven claims, that Ruskin finds Whistler lacking ('Ruskin vs. Whistler: The Case against Capitalist Art,' *Art Journal* 37.2 (1977-78): 141).

⁷³ The aligning of Whistler's work to the decorative arts was a common response. Henry James, for example, likens the Grosvenor Gallery entries to 'incidents of furniture or decoration' (*Painter's Eye* 165).

⁷⁴ Merrill makes the distinction between 'finish' and 'completion' to highlight this difference.

contest was over what qualifies as art, it was also a semantic struggle, a struggle over the terms in which art, and specifically, Whistler's art, might be spoken of.⁷⁵

Thus, *Whistler v. Ruskin* can be seen as the confrontation between two philosophies of art, its content, its function, and its value; between Whistler's aestheticism and Ruskin's moral criticism. For Whistler, Ruskin was at the helm of the onslaught by the literary, and his own theories in response tended to resist this co-option.⁷⁶ His synaesthetic nomenclature, for instance, shifts attention away from the linguistic orbit of the anecdote, thwarting any narrativising impulse on the part of the spectator:

By using the word "nocturne," I wished to indicate an artistic interest alone, divesting the picture of any outside anecdotal interest which might have been otherwise attached to it. A nocturne is an arrangement of line, form, and color first. (144)

In this regard, it was one of the defence's principal witnesses, William Powell Frith, who might be seen as Whistler's antithesis. Replete with scenic detail, Frith's paintings, such as *Derby Day*, are pictorial narratives, or at least, are conducive to the narrativising treatment of popular art criticism. Moreover, Frith's demand for 'true representation' (177), as exemplified by his own works, was from the outset in conflict with Whistler's anti-mimeticism.⁷⁷ For both Holker and Huddleston as well, representation implied a direct mimetic relationship between the painting and its subject, as their line of questioning suggested: 'Which part of the picture is the bridge,' asked Huddleston, 'Are those figures on the top of the bridge intended as people,' from Holker (150, 151). For Whistler, representation is subjectively grounded; it is impressionistic, not imitative. Rather than the empirical specificity

⁷⁵ Playwright and painter, William Gorman Wills, testified along similar lines: 'I consider the nocturnes in blue and silver original. I will not call them eccentric, nor do I call them gems. They are beautiful works of art in my opinion' (160).

⁷⁶ Alexandra K. Wettlaufer argues that even while conceding the expressive limits of language compared to the possibilities of visual imagery, Ruskin's art criticism ultimately displaces the painting that is its subject, arrogating for himself the productive powers of the painter by recreating for his readers not so much the visual experience, but an emotional and thus non-visual one ('The Sublime Rivalry of Word and Image: Turner and Ruskin Revisited,' *Victorian Literature and Culture* 28 (2000)).

⁷⁷ Frith's use of photographs in preparation for his paintings shows his deep allegiance to mimetic representation (Paula Gillett, *The Victorian Painter's World* (Gloucester: Alan Sutton, 1990) 85. In fact, the *Illustrated London News* suggested that *Derby Day* provided 'photographic glimpses of character' (cited in Charlotte Klonk, 'Mounting Vision: Charles Eastlake and the National Gallery of London,' *Art Bulletin* 82.2 (2000): 341).

expected by Holker, who asked if his *Nocturnes* were a 'correct representation' of particular scenes, Whistler's paintings merely aimed to 'bring about a certain harmony of color' (151).⁷⁸ In its mimetic guise, the level and success of representation can be gauged by the painting's adherence to its referent. In Whistler's version, the result of his representative efforts is highly unstable, fluctuating according to the perceiver: 'To some persons it may represent all that I intended to do; to others it may represent nothing' (151). The onus of judgement shifts to the perceiver, but the perceiver also becomes the subject of judgement. Art fails, the statement implies, not because of its intrinsic qualities, but because the spectator is incapable of perceiving the work as art. This is the crux of Whistler's claims: that it is only the practitioner who has the requisite skills and experience to expound upon aesthetic matters, and Ruskin, merely a desultory commentator, falls short in this regard.

Ruskin, by contrast, argues in *Modern Painters* that the 'critical' and the 'executive' facilities are independent entities, and that the cultivation of one must necessarily be at the expense of the other.⁷⁹ Appealing to the *ut pictura poesis* tradition, Ruskin posits a notion of poetry that is not purely literary, but one defined by nobility of usage, whether in the visual or in the literary arts. Ruskin's theorisation of the poetic employment of the arts is quite complex and merits further discussion. In the first volume of *Modern Painters*, he writes:

Painting, or art generally, as such, with all its technicalities, difficulties, and particular ends, is nothing but a noble and expressive language, invaluable as the vehicle of thought, but by itself nothing ... all those excellences which are peculiar to the painter as such, are merely what rhythm, melody, precision, and force are in the words of the orator and the poet, necessary to their greatness, but not the tests of their greatness. It is not by the mode of representing and saying, but by what is represented and said, that the respective greatness either of the painter or the writer is to be finally determined.⁸⁰

⁷⁸ I use the term 'impressionistic' guardedly, for while his contemporaries did associate Whistler with the French Impressionists, his work and method were vastly different. Where the Impressionists worked rapidly to convey an immediate sense of the scene, Whistler's technique demanded speedy execution but required lengthy cogitation on and processing of the scene. His method, he explains, was to complete 'the mass of the picture in one day, after having arranged the idea in my mind' (152). For a discussion of the differences between the proto-impressionist elements within Ruskin's moral aesthetics and Whistler's more solipsistic and subjective form of impressionism, see Adam Parkes, 'A Sense of Justice: Whistler, Ruskin, James, Impressionism,' *Victorian Studies* 42.4 (1999).

⁷⁹ Ruskin, *Works* 5: 11.

⁸⁰ Ruskin, *Works* 3: 87-8.

For Ruskin, the craft of the painter is comparable to that of the wordsmith, and both can be spoken of interchangeably, insofar as both function as communicative mechanisms, acting as conduits for the painter's or speaker's ideas. It is when these means are used to elicit the noblest emotions that greatness in art—or poetry—is attained. It is in this sense that Ruskin in volume three of *Modern Painters* claims that '[p]ainting is properly to be opposed to *speaking* or *writing*, but not to *poetry*.'⁸¹ That is, the art of painting is of the same order as the verbal arts, but poetry refers to the highest forms of both. Poetry, in thus uniting the two, allows Ruskin to transform the derogatorily intended '*littérateur*' directed at him by Whistler into hegemonic licence over both pen and brush.

The art of painting is defined in terms of fidelity of representation, and the subject of representation—'what is represented and said'—is the ultimate determinant of the artwork's greatness. In a telling condemnation, Ruskin warns against the meretricious attractions of unworthy subjects: 'energetic admiration may be excited in certain minds by a display of fireworks, or a street of handsome shops; but the feeling is not poetical, because the grounds of it are false, and therefore ignoble.'⁸² The rejection of commerce in the form of 'handsome shops' signals Ruskin's social concerns even at this early stage, but more suggestively, the inculcating of fireworks sets up aesthetic parameters that would decades later preclude Whistler's nocturnes from serious consideration. Yet Ruskin's theory of representation is not an arid mimeticism; indeed, he eschews imitation as a form of visual deception, arguing that a slavish adherence to detail is a 'libel' on the beauty and truth of nature.⁸³ The pleasure derived from imitation is a debased and 'contemptible' one, elicited by a trickery that precludes the viewer from a true 'impression and address of the thing represented' and thus from the nobility of emotion experienced in the encounter with nature.⁸⁴ Instead, the modern landscape painters reject 'at once all idea of *bonâ fide* imitation, [and] think only of conveying

⁸¹ Ruskin, *Works* 5: 31.

⁸² Ruskin, *Works* 5: 29.

⁸³ Ruskin, *Works* 3: 167.

⁸⁴ Ruskin, *Works* 3: 101.

the impression of nature into the mind of the spectator.’⁸⁵ It is this sense of the ‘impression of nature’ that is invoked when Ruskin claims that greatness is gauged by what is represented rather than how it is represented. Truth in art encompasses both the moral and the material, corresponding to a truth of impression and thought (the moral), and a truth of form and matter (the material).⁸⁶ While both are constituent elements of art, Ruskin assigns greater weighting to the former terms.

Yet despite Ruskin’s textual bias—what George Landow calls his ‘habit of impressing the nature of verbal upon visual art’⁸⁷—and despite Whistler’s objections to this bias, it would be erroneous to conflate Ruskin’s writings with the narrative didacticism of popular art criticism. While both forms of criticism gauge aesthetic greatness by criteria found beyond the canvas, Ruskin’s moral criticism was a conceptually sophisticated and rigorous analysis of the ideas animating art rather than banal storytelling as such. Kate Flint, in a Bourdieu-influenced reading, argues that the aim of conventional Victorian art criticism was to consolidate class allegiances rather than to fulfill any educative purpose in the technical sense, despite its claims otherwise. Thus, she asserts, ‘[p]ossession of shared knowledge, and shared opinion, was considered far more important than the activation of the individual eye.’⁸⁸ This may be true for popular publications, but Ruskin’s theories and pedagogy were very much concerned with the ‘individual eye’ and his literariness, if one might call his criticism thus, is of a different order from standard criticism. Indeed, it was in part Ruskin’s erudite commentary and his insistence on intensive study that paved the way for the emergence of professional criticism.⁸⁹

As is frequently remarked, much of Ruskin’s art theory is articulated in terms of the visual.⁹⁰ His characterising of an aesthetic sensibility in terms of an ‘*innocence of the eye*’ in his manual for the amateur painter, *Elements of Drawing* typifies this.

⁸⁵ Ruskin, *Works* 3: 168.

⁸⁶ Ruskin, *Works* 3: 104.

⁸⁷ George Landow, *The Aesthetic and Critical Theories of John Ruskin* (Princeton, New Jersey: Princeton UP, 1971) 84.

⁸⁸ Flint, *Victorians and the Visual Imagination* 196.

⁸⁹ Claire Wildsmith discusses the crucial role Ruskin played in shifting the basis of the authority of aesthetic discourse from traditional aristocratic sources to professional bourgeois ones (“‘Candid and Earnest’: the Rise of the Art Critic in the Early Nineteenth Century,” *Ruskin’s Artists: Studies in the Victorian Visual Economy*, ed. Robert Hewison (Aldershot, Hants: Ashgate, 2000)).

⁹⁰ See, for instance, George Landow, *Ruskin* (Oxford: Oxford UP, 1985); and *Aesthetic and Critical Theories of John Ruskin*.

Promoting a kind of visual essentialism, Ruskin valorises an artistic eye that, unjaded, has access to a visual purity unadulterated by convention:

The whole technical power of painting depends on our recovery of what may be called the innocence of the eye; that is to say, of a sort of childish perception of these flat stains of colour, merely as such, without consciousness of what they signify,—as a blind man would see them if suddenly gifted with sight.⁹¹

The most accomplished artists best approximate this ‘condition of infantine sight,’ but the apprentice painter is also exhorted to train the eye ‘to accurate perception’ in a similar fashion.⁹² Entrenched in habitual modes of observation, the viewer finds it increasingly difficult to differentiate between visual truths and conventions.

Formulaic replications masquerade as truthful representations, engendering a deception that conditions the viewer to misrecognise stagnation for vitality, banality for beauty.⁹³ The cultivation of the innocent eye can combat these debilitating effects by paring off these obfuscations to get to a purer reality or a greater truth. In this sense, Ruskin’s art criticism can be seen as an educative project with the aim of teaching its readers how to see ethically, not just the work of art, but the world itself.⁹⁴ Yet this visual innocence is not an abstracted disinterest; the process of seeing entails more than the physiological functioning of the human eye and is imbued with moral significance: the ‘impressions of beauty ... are neither sensual nor intellectual, but moral.’⁹⁵

Ruskin’s interest in the eye and the visual was shared by Whistler and the conceptual differences between the *l’art pour l’art* of Whistler’s aestheticism and

⁹¹ Ruskin, *Works* 15: 27. E. H. Gombrich points out the fallacy of Ruskin’s ideal, claiming that the projected separation of sensation (retinal stimulation) from perception (intellectual processing) is untenable (*Art and Illusion: A Study in the Psychology of Pictorial Representation*, 5th ed. (London: Phaidon, 1977) 250-2).

⁹² Ruskin, *Works* 15: 28, 38. In this text, Ruskin stresses the importance, if not the priority, of seeing over technical prowess, assuring his pupils that ‘when once we see keenly enough, there is very little difficulty in drawing what we see’ (*Works* 15: 13). Correspondingly, the exercises he prescribes pay equal attention to the eye as to the hand.

⁹³ Ruskin writes in the first volume of *Modern Painters*, ‘[w]e are constantly supposing that we see what experience only has shown us, or can show us, to have existence, constantly missing the sight of what we do not know beforehand to be visible’ (*Works* 3: 145).

⁹⁴ The success of this project might be gauged by responses to Ruskin’s works. Charlotte Brontë wrote of *Modern Painters*, ‘[h]itherto I have only had instinct to guide me in judging art; I feel now as if I had been walking blindfold—this book seems to give me eyes’ (James Thomas Wise ed., *The Brontës: Their Lives, Friendships, and Correspondence*, vol. 2 (Philadelphia: Porcupine, 1980) 240).

⁹⁵ Ruskin, *Works* 4: 42.

Ruskin's moral view of art can be expressed in terms of differences in their respective understandings of visual perception. The court case was thus a contest to determine which way of seeing took precedence and whose gaze was more authoritative. Both believe in a superior kind of vision, but where Whistler sees this as a sensitivity to beauty, Ruskin sees perceptual sensibility as the mark of moral man. Remarking on the futility of explaining the 'peculiar beauty' of *Nocturne in Black and Gold*, Whistler ruminated in court, 'I daresay I could make it clear to any sympathetic painter, but I do not think I could to you [Holker], any more than a musician could explain the beauty of a harmony to a person who has no ear' (153). Although not explicitly stated, the insinuation is sufficiently clear that one might substitute 'eye' for 'ear' and deduce a charge of aesthetic blindness against Holker. Likewise, Ruskin's failure to perceive formal beauty is the blindness of the amateur.⁹⁶ These implications are fleshed out in Whistler's 'Ten O'Clock,' a public lecture given in 1885. Here, expounding on an autotelic concept of art, Whistler warns against confounding beauty with virtue, against expecting moral utility from the artwork, as in conventional practice:

Hence it is that nobility of action, in this life, is hopelessly linked with the merit of the work that portrays it; and thus the people have acquired the habit of looking, as who should say, not at a picture, but through it, at some human fact, that shall, or shall not, from a social point of view, better their mental or moral state.⁹⁷

Trained to process visual data according to a narrativising logic, the viewer's eyes fail to apprehend the picture in and of itself, but look through it to an external and extraneous end. The materiality of the artwork is overlooked as the painting becomes a mere conduit to a moralising fable and is judged according to what it depicts rather than the skill in depiction.⁹⁸ Thus constrained by his myopic 'literary point of view,'

⁹⁶ Compare Whistler's comments to Ruskin's: '[I]t is impossible to direct fine art to an immoral end, except by giving it characters unconnected with its fineness, or by addressing it to *persons who cannot perceive it to be fine*' (*Lectures* 37, my emphasis). Both impute blindness to others whose points of view were incommensurate with their own, albeit that Ruskin refers to a blunted moral sensibility and Whistler to an aesthetic one.

⁹⁷ Whistler, *Gentle Art* 137-8.

⁹⁸ Narrative was an important pedagogical device in the nineteenth century. Museum and gallery displays were frequently organized to present a coherent narrative as a means of imparting a particular point (Colin Trodd, 'Culture, Class, City: The National Gallery, London and the Spaces of Education, 1822-57,' *Art Apart: Art Institutions and Ideology Across England and North America*, ed. Marcia

the art critic treats the picture as a mere 'hieroglyph,' and in the process of this verbal translation claims a sham ownership that distorts and degrades art itself.⁹⁹ It is in this context that Whistler's practice of painting on the frames takes on significance. Holker commented on this proclivity during the trial, stating that 'it would have been better, perhaps, if a great deal of the color had not escaped from the picture and wandered over the frame' (166). But this 'escaping' of colour draws attention to the physical limits of the painting precisely by exceeding them and is not so much evidence of a want of care as Holker suggests, but an artful technique to emphasise the framing of his works. In so doing, Whistler reinforces the status of his painting as artefact, not narrativising aid.

In addition to distorting his appreciation of art, the layman's faulty perception also hampers his experience of Nature. Whistler sets up an opposition between the superficial gratification of the 'tourist's' visual experiences and the painter's aestheticising gaze, which sees in Nature the 'suggestions of future harmonies,' the potential for aesthetic beauty to be fulfilled by the painter.¹⁰⁰ Misrecognising the 'casual' for the 'sublime,' the 'holiday-maker' relishes the hackneyed delights of 'a very foolish sunset,' while the painter, possessing superior faculties of vision, 'turns aside to shut his eyes,' returning only with the departure of the holiday-maker, when 'the evening mist clothes the riverside with poetry, as with a veil.'¹⁰¹ The affinity between Nature and artist forged in the indeterminacy of evening light is particularly salutary given the reservations expressed in court over Whistler's choice of subject matter. Burne-Jones commented on the difficulty of portraying night, adding emphatically that *Nocturne in Black and Gold* was 'only one of a thousand [such] failures' while Taylor suggested that the night, 'on canvas, ... is a shadowy subject' (173, 180). Yet the attraction of such a 'shadowy subject' might also have been its resistance to interpretative clarity; the enigmatic subject matter together with Whistler's non-imitative treatment foster an esotericism that reinforces the artist's supremacy of vision. 'Mr. Whistler does not see things as other people do. He sees things we cannot see and hears artistic voices we cannot hear,' Holker stated in court

Pointon (Manchester: Manchester UP, 1994); Tony Bennett, *The Birth of the Museum: History, Theory, Politics* (London: Routledge, 1995).

⁹⁹ Whistler, *Gentle Art* 146.

¹⁰⁰ Whistler, *Gentle Art* 145.

¹⁰¹ Whistler, *Gentle Art* 144.

to highlight Whistler's eccentricity as part of his strategy of delegitimation (168). That the statement met with laughter testifies to the Holker's astute manipulation of his audience, but there is in fact some truth in his quip. It seems that Whistler himself would concur that he 'sees things we cannot see,' that the artistic eye is indeed an extraordinary one.

Whistler's position would thus appear to be in diametric opposition to Ruskin: where Whistler's art is inward-looking and self-consolidating, Ruskin's is externally oriented; where Whistler disavows any moral significance in the aesthetic, Ruskin's definition of art is bound up with ethical concerns. Yet although theoretically irreconcilable, the relationship between the two is more complex than an outright antipathy. E. H. Gombrich argues that both were responding to what they perceived as the 'ugliness and squalor of their surrounding,' albeit in opposing manners: Ruskin by appealing to a common moral sense and Whistler by turning inwards to an inner aesthetic sensibility.¹⁰² Nicholas Shrimpton suggests that Ruskin was not so much the enemy of aestheticism as alleged by Whistler but a mediatory figure between Aestheticism and Puritanism (Arnold's non-conformist Philistines), attempting to reconcile the artistic prerogatives of the one to the religious and moral concerns of the other.¹⁰³ In this sense, we return to the point made earlier that *Whistler v. Ruskin* is less a generational struggle than a rupture within the field of art that laid open the tensions implicit in Victorian aesthetic theory. Ruskin sought to revitalise the arts by emphasising their broader social and moral significance. Whistler defended the integrity of the visual arts *qua* visual in a strategy of isolation and elevation. These were competing definitions of art that had implications for how it was consumed and how it was valued.

Yet the spectre of the law cannot be excised from this contest. Whether viewed as a clash between disciplinary authorities or a generational one, transposed onto the field of law, both critic and artist were subject to an alternative jurisdiction. The terms of art were translated into a legal vocabulary of expressive freedoms, consumer rights, and compensatory measures. In an illuminating reading of the case, Costas Douzinas aligns Ruskin's conservative mode of judgment with the

¹⁰² E. H. Gombrich, *The Story of Art* (1950; Oxford: Phaidon, 1984) 424.

¹⁰³ Shrimpton 147-9.

functioning of common law. Both are founded on normative criteria, drawn from traditional practices, habits, and values.¹⁰⁴ By contrast, Whistler's formalist aesthetic, he argues, judges according to its own internal logic. This logic operates in the guise of the law, and it is through this logic functioning as law that the artistic truth can be reached: 'art operates as if it has a truth and as if it follows a law. Its truth can be approached only if it is purified from all extrinsic considerations and allowed to develop its own internal formal logic.'¹⁰⁵ That is, Whistler's autotelic conception of art works by miming the processes of law even while it rejects the authority of institutions and knowledges beyond its boundaries.¹⁰⁶ Douzinas thus concludes, '[i]f Ruskin turns art into law, Whistler turns law into art.'¹⁰⁷

But Douzinas does not account for the specific functioning of English law. As discussed in Chapter Four, the adversarial nature of the nineteenth-century English legal code meant that trials were conducted as contests between opponents. The parameters of the case were defined by both parties and each party presented its argument after first gathering and formulating its evidence. Cases were determined by juridical consensus rather than through an exhaustive investigation to establish the details of the 'truth' as such, as was characteristic of the inquisitorial approach of Continental codes. In the adversarial system, the truth was arrived at by arbitrating between two competing accounts. In this sense, the process of judgment at work in the English court reverses the process of aesthetic judgement according to Whistler. For Whistler, while the reception of the work varies and is subjective, the 'truth' of art, dependent on its own logic, remains constant, and it is this 'truth' by which the observer is judged. In *Gentle Art*, Whistler takes issue with a concept of art reduced to a function of taste and opinion and writes critically of contemporary trends: 'Art is joyously received as a matter of opinion; and that it should be based upon laws as rigid and defined as those of the known sciences, is a supposition no longer to be tolerated by modern cultivation.'¹⁰⁸ Art should not be at the mercy of the vagaries of lay opinion; rather, opinion—or judgement—should be assessed according to artistic truth and it is the observer, the one ostensibly making the judgement, who comes

¹⁰⁴ Costas Douzinas, 'Whistler v. Ruskin: Law's Fear of Images,' *Art History* 19 (1996): 360.

¹⁰⁵ Douzinas, 'Whistler v. Ruskin' 362.

¹⁰⁶ Art, Whistler asserts, is 'withal, selfishly occupied with her own perfection only' (*Gentle Art* 136).

¹⁰⁷ Douzinas, 'Whistler v. Ruskin' 362.

¹⁰⁸ Whistler, *Gentle Art* 32.

under scrutiny. Whistler measures, and finds wanting, the tourist's or the holiday-maker's facile judgements which fail to recognise beauty in nature's indeterminacy. In Whistler's aesthetic, 'truth' interrogates the judgement. In law, judgement produces a 'truth.'

Thus when Whistler called upon the law in his battle with Ruskin, he in fact invoked a process of judgement that was contrary to his own procedures and beliefs. What Henry James saw as an ill-judged spectacle in fact reveals some surprising affinities as well as fundamental differences between art and the law. The defence claimed that Whistler misappropriated libel law as a weapon against the critic's expressive freedom to the detriment of art. At the same time, the law functioned in a more enabling manner, providing a public stage from which each party could disseminate his theory of painting. Yet this public arena was one circumscribed by the demands of law. Performances and utterances made from the witness stand were filtered through an interpretative grid such that paintings became exhibits in the legal rather than artistic sense, aesthetic statements became grounds for criminal condemnation, and artistic practice became indictments of character. Yet in a further twist, these legal interpretations were themselves subject to re-inscription. In a manner comparable to the post-trial incarnations of 'Zola' as signifier, Whistler's *Gentle Art* transformed the ambiguous result of the trial into an opportunity for self-advertisement. We have perhaps come full circle in more ways than one: where the quarrel between Whistler and Ruskin in the realm of art was displaced onto the field of law, in *Gentle Art*, the events of the courtroom are re-inscribed in a literary form. Where Whistler once condemned Ruskin's intrusion into the visual arts, in *Gentle Art*, the artist wields not a paintbrush, but a pen.

The two positions mapped out in *Whistler v. Ruskin*—an ethical-moral criticism and a formalist aesthetic—also inform debates about the nude, the subject of my final chapter. The status of the nude was highly unstable and its defenders sought to rescue the nude by invoking a Whistlerian aesthetic. In a process of rarefaction, both of the undraped figure and of vision itself, the nude, and the contemplation of it, were elevated above social and moral exigencies. At the same time, these processes had

deeply social implications, for they sought to mark out a public to whom art could legitimately address.

Chapter 6

The Nineteenth-Century Nude

If *Whistler v. Ruskin* can be read in the light of competing theories about seeing, then the case of the nineteenth-century nude demonstrates how concerns over spectatorship informed debates about the morality of art with respect to one of art's most controversial subjects. While there were instances when action was taken against offending images under the Obscene Publications Act—the Society for the Suppression of Vice claimed to have seized over two hundred and fifty thousand obscene photographs and prints between 1868 and 1880¹—the battle to control the visual realm extended far beyond legal repercussions. Measures taken to protect the nude from such prosecution were a part of this struggle, and the defenders of the nude sought to produce and consolidate a category of art, based on a mode of legitimate spectatorship, that would be immune from moral censure. Against the threat of censorship from the nude's critics, its proponents exercised a kind of pre-emptory censorship themselves: by delineating abstract rules of aesthetic appreciation, they produced not only a demographic of visual connoisseurship and a category of high art centred on the nude, but also a model of visual consumption that perpetually sought to expunge an unruly, bodily gaze.

¹ Alison Smith, *The Victorian Nude: Sexuality, Morality and Art* (Manchester: Manchester UP, 1996) 64. See Myrone for a discussion of specific prosecutions. Myrone argues that the problem of pornography was exacerbated by new technologies of representation and mass production. Photography, broadly understood as an authorless means of replicating nature, lacked the authentication of artistic intent to protect it from charges of pornography. This forms a telling contrast to the discussion of censorship and agency in Chapter Two. Foucault locates the emergence of censorship at the point of the emergence of the concept of authorship, arguing that prosecution is only possible when agency is ascribed to a defendant. By contrast, here, it is the absence of agency, or rather, the mechanical agency of reproductive technologies adduced as evidence of the absence of artistic agency, and thus the absence of legitimate artistic purpose, that leads to censorship.

I begin with a discussion of the 'British Matron' controversy of 1885, which, while not an isolated attack on the immorality of contemporary art, effectively captures the gamut of public and expert opinion vis-à-vis the nude. I then argue in the next section that attempts to defend the nude against censorious opinion invoked a dichotomous vision along Cartesian lines: a legitimate aestheticising gaze was differentiated from a sexualised bodily one. In defining a proper aesthetic response, the defenders of the nude also projected a proper audience for the artwork. Thus, in the last section of the chapter, I place the overall controversy not just in the context of purity agitation in the 1880s, but in the greater context of regulation of the visual arts. Specifically, I argue that it was the moment when art passed from private ownership to a public trust that the issue of audience came to the fore.

The 'British Matron' Affair

Writing to the *Times* in May, 1885, the self-styled 'A British Matron' protested against the iniquity of nude exhibits. Nakedness, being unlawful in life, should likewise be proscribed in representation, and she claims that galleries have abjured their noble purpose in flagrantly displaying such paintings.² On behalf of social purity, she attacks the formalist tendencies of artistic practice in lay terms, alleging that 'electing a subject painted for no purpose but to testify to the painter's skill' is an insult to modesty and a travesty upon the gallery's edificatory goals.³ The letter generated a heated exchange, with both supporters and detractors writing fervently in response. Those writing in support of the British Matron emphasised the size, and hence, visibility and unavoidability, of the offending paintings—the 'enforced contact,' as 'Another British Matron' calls it—advocating instead a segregated display, if the display of the nude was indeed indispensable for the development of the arts.⁴ Concern was also raised over the process of producing the nude itself,

² The moral parity the British Matron draws between life and art has a more authoritative precedent in Ruskin's comments on the nude: in his 1872 *Eagle's Nest* lectures, he states as a 'positive and perpetual law, that so much of the nude body as in the daily life of the nation may be shown with modesty, and seen with reverence and delight,—so much, and no more, ought to be shown by the national arts, either of painting or sculpture. What, more than this, either art exhibits, will, assuredly, pervert taste, and, in all probability, morals' (*Works* 22: 234).

³ 'A Woman's Plea,' *Times* 20 May 1885.

⁴ *Times* 23 May; 'Clericus's' letter of 21 May makes similar claims.

centring on the dual issues of the exploitation of female models and the propriety of the life class.⁵

The position of the British Matron's opponents is succinctly expressed by 'A British Parent': 'Honi soit qui mal y pense.'⁶ Any offence lies less in the paintings on show than in the impugnation on British innocence by the British Matron, who, as 'Commonsense' asserts, 'suggest[s] evil where healthy-minded people would never suspect it.'⁷ Citing the divine beauty of the human figure, these correspondents argue that its depiction approaches true nobility. In a satirical variation, Jerome K. Jerome points out that the British Matron's condemnation of painters who 'merely copy Nature' is an incomplete censure, exhorting her to extend her reprimand to God Almighty for 'having created such an indelicate object' in the first place.⁸ Others challenged a semiotics of morality that gauged decency according to drapery, pointing out, as artist John Brett does, the illogical transformation of 'dress and finery' to indicators of virtue.⁹

The most significant contributions were from the painter Edward Poynter and 'H,' widely accepted to be the *nom de plume* of Academician John Callcot Horsley, a vocal opponent of nude study.¹⁰ 'H' dismisses the well-meaning yet ignorant protests of the uninitiated, allowing that the nude can approach true nobility, but only under the most conservative provisos: it must appeal to aesthetic sensibility and not physical 'appetite'; its representation must be idealised rather than 'a literal transcript of individual fact'; and the painter must adhere to conventions of execution. Artistic endeavour is thus firmly reintegrated into its social provenance, for the conditions of legitimacy to which the painter must accede are beyond his control. Moreover, the skill and mastery necessary to produce the nude in its nobility are now 'an almost extinct art,' and 'H' posits Edward Poynter's *Diadumenè* as an example that falls short of the noble ideal: it is 'a fine, firm, true, but not a magnificent creature.'

⁵ See letters from 'Senex' (22 May) and 'X.Y.Z' (23 May).

⁶ *Times* 21 May.

⁷ *Times* 21 May. See also letters from 'An English Girl' and 'A British Parent' (21 May), and H. G. F. Taylor (25 May).

⁸ *Times* 23 May.

⁹ *Times* 22 May. See also letters from 'U. M. B.' and artist Frederick Wheeler (23 May), and artist Edward J. Martyn (25 May).

¹⁰ *Times* 28 May. Alison Smith claims that Horsley also penned the initial 'British Matron' letter, based on a reference by Robert Browning in his *Parleying*, but the connection does not seem fully substantiated (*Victorian Nude* 227).

Having been thus publicly censured, Poynter responded in defence of his own works. The painting in question took as its subject the Esquiline Venus, excavated from a Roman site in 1873 and Poynter attempts to recreate the origins of the statue's creation.¹¹ Poynter uses a mimetic argument to justify his painting, for if he is to recreate the nascence of the sculpture, then 'the forced introduction of drapery would be a prudery which would increase the evil, if evil there is.'¹² He appeals to an aesthetic sensibility and historical similitude from a broadly educative stance, arguing that the painting purposed to 'form a beautiful setting to a beautiful figure' while at the same time 'giv[ing] some idea of what the bath-room of a lovely Greek or Roman girl might be.' In highlighting these classical roots, Poynter insists that his painting is far from the Salon *baigneuses* 'H' accuses his work of replicating, but legitimate forms of art of which key English figures, such as Millais and Leighton, have essayed. Contrary to being acts of overweening ambition, Poynter counters that his attempts are a homage to the great masters forged in humility rather than competition.

The immediate impetus for the British Matron's outrage was exhibitions of 'indecent pictures' at the Royal Academy and the Grosvenor Gallery, including Poynter's *Diadumenè*.¹³ Reviews of the two exhibitions show that there was a perceived need to defend the nude on the part of critics, to delineate a category of legitimate representations against less salutary depictions of the undraped figure. The reviews also reveal that while individual works elicited different responses, there were similarities in the reasoning behind particular assessments: criticism arose

¹¹ As such, the painting can be seen in the context of the Pygmalion genre popular at this time.

¹² *Times* 28 May. Poynter later painting drapery over the figure, additions he was to regret (Joseph A. Kestner, *Mythology and Misogyny: The Social Discourse of Nineteenth-Century British Classical-Subject Painting* (Madison, Wisconsin: U of Wisconsin P, 1989) 227).

The justification of historical or mythological similitude while commonly heard, was also treated with scepticism. The *Pall Mall Gazette*, for example, notes cynically the pragmatic use of 'archaeological' contexts: 'You wish to paint from the nude [but] ... you are just a little bit afraid of the British Matron ... [you] turn to your classical dictionary or to your history primer, and select a legend. Put in two draped female figures in the background, and the picture becomes "The Judgment of Paris." The addition of a male nude or of an ichthyosaurus will turn the model into Andromeda' ('Archaeology and Art,' *Pall Mall Gazette* 16 May 1891: 1).

¹³ 'A Woman's Plea,' *Times* 20 May 1885.

The paintings included: at the Royal Academy, Poynter's *Diadumenè*, Albert Moore's *White Hydrangea*, Edward Armitage's *After the Arena*, Harrington Mann's *Ulysses Unbinding the Sea-Nymph's Veil*, Philip Calderon's *Andromeda*, J. W. Waterhouse's *St Eulalia*, John Collier's *Circe*; and at the Grosvenor Gallery, Charles William Mitchell's *Hypatia*, George Frederick Watts's *Love and Life*, and a smaller study of Poynter's *Diadumenè*.

largely from common ideological and theoretical frameworks of reference, ones which had been debated and wrestled with throughout the nineteenth century.

Ways of Seeing: The Dichotomy of Vision

If the moral danger of the nude lay in its ability to corrupt visually—the danger is ‘exposed to the gaze of multitudes’¹⁴—attempts to recuperate the nude also sought to redeem the aesthetic experience as a visual one. Poynter himself promoted life study as the primary means of training the eye, for it is ‘*seeing* which is the all-important matter; it is his *eye* which [the student] must educate to learn the art of painting.’¹⁵ This visual schooling enables the artist to see beyond the facile attractions of ‘external beauties, which are obvious to all the world,’ to find those ‘which underlie the surface, and which only the mind of the artist stimulated by continue study, can discover.’¹⁶ Life study thus has the dual goals of the ‘development of faculties,’ in terms of perceptual, intellectual, and technical abilities, and the ‘cultivation of tastes,’ in terms of aesthetic judgement.¹⁷ The eye is first trained ‘to see, and see at once, the tones and colours of his model,’ the mastering of which is a necessary step in the cultivation of the imaginative flair of the ‘mind’s eye’ which sees beyond the superficial to latent beauties.¹⁸

That the mapping out of a legitimate nude is correlated to a particular way of seeing is evident in conservative art critic Harry Quilter’s assessment of the English nude. Quilter’s comparison of different approaches is articulated not just in terms of differences in execution, but as different ways of looking:

To one man [the undraped figure] is a collection of muscles, another sees chiefly the framework on which the muscles are stretched, a third sees only the form which some pet old masters saw, and models his conception from

¹⁴ *Time* 25 May 1888.

¹⁵ Edward J. Poynter, *Ten Lectures on Art* (London, 1879) 159. Poynter is specifically challenging the English academic system that permitted drawing from life only after lengthy study of antique casts.

¹⁶ Poynter 113–14. Poynter’s advice recalls Whistler’s privileging of the artist’s eye which bypasses superficial visual pleasures for more esoteric beauty. Significantly, given Whistler’s denigration of Ruskin’s visual competencies, Poynter argues that Ruskin is ‘blind’ to aesthetic beauty: Ruskin ‘denies that the art [of Michelangelo] is good, because he cannot see and never has seen it’ (232, 231).

¹⁷ Poynter 188.

¹⁸ Poynter 159, 161.

that, another sees nothing under the skin, and another sees only a woman stripped of her clothes.¹⁹

Quilter argues that these ways of seeing the figure—as physiological structure or anatomical specimen, through the lens of the antique, as surface without form, or in realist specificity—are ‘wrong’ ways of viewing the human form. The ‘true manner’ apprehends not only the external and the internal qualities, but also that which animates and ennobles the body, be it ‘sense, spirit, intellect [or] soul’: ‘If a painter does not see that in the human body, his pictures bear inevitable witness to the fact, and, no matter how beautifully they are painted, can never be otherwise than offensive.’²⁰ The cause of offence is not nudity itself, but a deficiency in how the painter sees the figure. Quilter resuscitates the nude not by separating morality from art, but by reconfiguring morality as a particular way of looking.

In comparison, P. G. Hamerton’s defence of French painter Jean-Léon Gérôme’s *Phryne before the Areopagus* by recourse to an ‘artistic spirit’ insists on a rupture between moral and aesthetic sensibilities, and is thus far removed from Quilter’s understanding of ‘spirit’:

The leaning towards sensual subjects evinced by Gérôme [is] ... due far more to artistic predilections for certain qualities of line and modelling, best found in such subjects, than to prurience of feeling. When the artistic spirit is powerful, and has predilections of this kind, it is apt to over-rule all other considerations. The spectator, who does not share this spirit, sees immorality where none was intended, and, as he sees nothing else, imagines that the work was produced only for immoral purposes.²¹

Where Quilter claims that beauty of treatment without a morality of seeing can only be offensive, Hamerton argues that beauty of treatment transcends all notions of morality and offence. For Hamerton, the artist’s preoccupation with form and execution informs his entire relationship with his subject, overriding any concern over the issue of sexual morality. By contrast, the spectator who lacks ‘the artistic spirit’ is afflicted with a kind of aesthetic blindness; seeing ‘nothing else’ but an imagined immorality, he imputes to others an imagined offence. That Gérôme’s painting depicts an act of communal spectatorship—the moment when Phryne

¹⁹ Harry Quilter, ‘The Art of Watts,’ *Contemporary Review* 41 (1882): 272.

²⁰ Quilter, ‘Art of Watts’ 272.

²¹ P. G. Hamerton, ‘The Artistic Spirit,’ *Fortnightly Review* 1 (1865): 335.

disrobes before her judges—brings the question of the legitimacy of viewing into the foreground, exacerbating the ambivalence of the viewing experience. Other reviewers, while praising Gérôme's technique, write more guardedly about his subject. The *Spectator* expresses reservation over the 'undue voluptuousness' of the work, stating that the 'leering gaze and sensual expression which are displayed in the most prominent of the judges should have been confined to one or two of the obscurer personages, and not permitted to attract the eye.'²² The *Gentleman's Magazine* likewise takes issue with the unwarranted focus on 'the sensual and lustful expressions,' although allowing that a less exaggerated 'repulsiveness' might appropriately be portrayed to bolster the painting's denunciation of the judges' hypocrisy: the distinction between a moral intention and an exploitation of prurience seems to be a fragile one.²³ More significantly, the painting's offence lies not in the nude form itself—the figure of Phryne unclothed, this reviewer is at pains to note, 'is perfectly refined and pure'²⁴—but in the disproportionate attention given to an act of illicit visual consumption.²⁵ In this sense, Gérôme's painting and the responses to it recapitulate one particular reading of the British Matron scenario: it is not nudity that corrupts its viewers, but the impure viewer who besmirches the nude.

Elsewhere, Hamerton offers a more severe assessment of Gérôme. His *Grande Piscine de Brousse*, with its strict adherence to life, its preponderance of detail, and its meretricious handling, violates the principles of ideal treatment:

[T]he want of idealisation alike in the forms and the attitudes of the women, place[s] us in the position of some over-curious spectator who has bribed the

²² 'Exhibition of French and Flemish Pictures,' *Spectator* 1983 (30 June 1866): 719.

²³ 'Exhibition of French and Flemish Schools,' *Gentleman's Magazine* n.s. 1 (1866): 883.

²⁴ *Gentleman's* 884.

²⁵ This instance might be compared to the case of Millais's *The Knight Errant* (1870), a medieval chivalric scene depicting an armoured knight freeing a naked maiden bound to a tree. In the earliest version, the woman's gaze is directed at the viewer; in a later revision, Millais repainted the figure so as to avert her glance. The editing, a kind of self-censorship, was a placatory nod to Victorian gender conventions which imbued a feminine immodesty to a direct gaze. Richard Jenkyns suggests that the spectatorial connection in the original design 'involv[ed] the spectator with her and the knight in a disagreeable triangular conspiracy of lust' (*Dignity and Decadence: Victorian Art and the Classical Inheritance* (London: Fontana, 1992) 118).

The pictorial significance of the female gaze as a symbol of transactional promise can also be seen in the *Saturday Review*'s tirade against the Holywell Street traffic in pornographic prints, citing the obtrusive window displays of 'stereoscopic slides, representing women more or less naked, and generally leering at the spectator with a conscious or elaborately unconscious impudence' ('Holywell-Street Revived,' *Saturday Review* 21 August 1858: 180). Here again is the conflation of the undraped body and a suggestive gaze.

bath-keeper for a furtive inspection of the scene. The feelings excited by a work of this class are as different as possible from the charm of the ideal.²⁶

The anxiety over the representation of a prurient spectatorship in *Phryne* bespeaks an implicit unease over the viewer's own act of spectatorship; here, Hamerton openly critiques the way in which *Grande Piscine* positions the viewer and circumscribes and defines his visual experience. The viewer is interpellated as a lascivious spectator and the pool-side scene is presented as a spectacle for clandestine physical gratification: the shared ogling and culpability that remain unspoken in reviews of *Phryne* is made explicit. The result is a life-sized portrayal of nakedness on 'a very low moral and intellectual level' rather than an aesthetic rendering, and shows how the 'civilising' potential of the art can be distorted by a prurient end.²⁷ Foregrounding an act of spectatorship that is impure, Gérôme's paintings challenge the fortitude of their viewers: it is therefore not only the artist's gaze that is under examination, but the audience's as well.

Implicit in these comments is a Cartesian bifurcation of visual perception into an ennobling gaze, whether intellectual, spiritual, or moral, on the one hand, and a bodily or sensual gaze, on the other. This dichotomy recalls Joshua Reynolds's neo-classical theory of painting in his addresses to the Academy. Privileging mind and reason over body and matter, Reynolds establishes a hierarchy of value based on intellect, in terms of both the 'mental labour' invested in the artwork and the 'mental pleasure' it generates.²⁸ At the acme of artistic achievement is the 'grand style' in painting which extracts the sublime from nature and distils the perfect form from the ephemeral particularities of lived experience. The pursuit of the greatest art is also the pursuit of the ideal, and the painter is released from the shackles of fact and materiality to range free in an idealising imagination. The opposition between the intellectual and the bodily persists throughout the *Discourses*: simplicity and repose are set up against meretricious posturing; 'the most sublime ideas' against 'the lowest sensuality'; 'the desires of the mind' against 'the gross senses'; the gravitas of

²⁶ P. G. Hamerton, *Man in Art: Studies in Religious and Historical Art, Portrait, and Genre* (London: Macmillan, 1892) 42.

²⁷ Hamerton, *Man in Art* 42.

²⁸ Joshua Reynolds, *Discourses on Art*, ed. Robert R. Wark (1797; New Haven: Yale UP, 1997) 57.

Raphael against the 'bustle' of Paulo.²⁹ These explicit binaries suffuse Reynolds's writing in a more general manner. The bias against the secondary term is evident in his description of the Venetian school, for instance, where he indicts the 'seducing qualities' of such artists as Tintoretto and Paulo, who have 'exhausted all the powers of florid eloquence, to debauch the young and inexperienced.'³⁰ The consumption of such works is figured metaphorically as an act of seduction, and against the 'mental pleasure' proffered as the pinnacle of aesthetic experience, these works offer a physical, and blatantly sexual, encounter.

Reynolds's theory was formulated against the backdrop of late eighteenth-century England. The rise of modern commercial society had eroded the ideals of civic humanism that held sway in the first half of the century and Reynolds sought to resuscitate these ideals by redefining and appealing to a public art.³¹ Ideal form is thus set up specifically against the mechanistic as a bulwark against the individualising tendencies of mercantilism and the pursuit of private interests. Although concerned about the encroachment of individualist principles of political economy onto the more expansive ideals of a civic humanist republic, these ideals at this stage still seemed salvageable. But by the nineteenth century, the composition of the polity had changed substantially and irrevocable, such that the issue of the public had become a highly charged one and assumptions about a shared culture had become overburdened by the public's heterogeneous membership. The republic of taste that for Reynolds both replicated the political republic and prepared its citizens for membership in this political republic was no longer a tenable ideal.³² Thus, the echoes of Reynoldsian theory in the latter part of the nineteenth century borrow his ideas but either rearticulate them in a later political or social context or insert them in a depoliticised aesthetic. Barrell suggests that Reynolds sought to 'shape ... an

²⁹ Reynolds 65, 244, 64.

³⁰ Reynolds 67.

³¹ See John Barrell, *The Political Theory of Painting: From Reynolds to Hazlitt* (New Haven: Yale UP, 1986).

³² Barrell suggests that in pursuit of this political function of art, the ability to abstract from the particular to the ideal had a two-fold benefit: first, it allowed the viewer to transcend the particularity of individual differences to find commonality in the contemplation of art; second, the viewer trained to recognise abstract concepts is also able to grasp the abstract virtues defining the civic polity (78-9).

audience into a public,' and while commentators almost a century later wrestled with similar ideas, this was a vastly different public to Reynolds's.³³

Nonetheless, Reynolds's opposition between an abstract ideal and the materiality of quotidian detail informs reviews of the 1885 exhibitions. Criticism of nude exhibits centred on the discrepancy between a purported elevated subject, whether mythological, allegorical, or biblical, and its deficiency in execution. The *Academy's* Claude Phillips judges Moore's *White Hydrangea* a 'failure,' citing an anachronistic distortion of its classical subject by the 'pretty, modern, girlish head' which renders the whole less exalted than 'comic.'³⁴ The *Builder* finds a 'ludicrous impropriety' to the figure's realistic depiction: 'it is as if we were sitting in a rather aesthetic drawing-room, and the young lady of the house suddenly tripped in, with a little conventional simper on her face, and an unfortunate but entirely innocent forgetfulness of the fact that she had nothing on but her cap.'³⁵ Calderon's *The Woodland Spring* suffers from a similar 'prosaic' treatment, depicting less a nymph than 'a plump country girl who is catching cold by sitting out naked on the bank of a brook.'³⁶ Quilter censures Watts's *Love and Life* for failing as allegorical art: the nude figure 'is simply a little snub-nosed girl,' lacking the gravity to bear the weight of the allegorical message.³⁷

In Reynoldsian terms, these paintings all fall short of a universalising ideal, failing to abstract from the naked body to the artistic nude. Traces of the artistic process and contemporary resonances—the snub-nosed model, the girlish figure—have not been adequately expunged from the works, and the all-important transformative moment from the painter's material present to a mythological or historical realm has failed to eventuate. While assessments of individual paintings may differ, the criteria for these judgements remain largely similar: they take as a

³³ Barrell 93.

³⁴ Claude Phillips, 'Fine Art. The Royal Academy,' *Academy* 27 (9 May 1885): 335.

³⁵ 'The Royal Academy Exhibition,' *The Builder* 48 (9 May 1885): 647.

³⁶ 'The Royal Academy Exhibition; 647.

³⁷ [Harry Quilter], 'The Grosvenor Gallery. (First Notice),' *Spectator* 9 May 1885: 611. These examples are typical of much critical commentary. See also reviews from the *Saturday Review*, the *Athenaeum*, the *Spectator*, and the *Art Journal*.

premise the separation of visual consumption into an intellectual and a physical or sensual form.³⁸

Blackwood's Magazine more explicitly condemns the countermanding of Reynoldsian principles in contemporary practice. Artists have abandoned the pursuit of the ideal to pander instead to a debased public taste and in so doing, 'might seem in malice to reverse the Discourse.'³⁹ The result is a kind of Malthusianism in the art field where 'the few may prosper, but the many must starve' with an output of the 'vainest mediocrity,' a situation akin to the crisis in the literary sphere as conceived by Gissing. *Blackwood's* mounts a surprising defence of the nudes on display, invoking a familiar argument based on viewer sensibility: '[t]he ignorant—those, for example, who howl against Mr Poynter's "Diadumenè"—see but naked nature. The educated overlook the nudity in the art.'⁴⁰ Censorious injunctions are dismissed as perceptual deficiencies while the initiated have the ability to see beyond a concrete materiality. If the British Matron calls for the censoring of offence by its removal, the 'educated' censor at a prior stage, by a perceptual filtering at the level of consumption. Indeed, the season's nudes are held up as nodes of resistance against the trend towards materialism. Where classical art exemplifies the fusion of ideal and real, the soul and the body, contemporary society is skewed towards the material, fixating on external elements at the expense of form and ideal type. Seeing 'but naked nature' is figured as a materialist form of consumption, a kind of mechanical process akin to the exercises of manual dexterity that art has largely become. This

³⁸ The etymological variants of the word 'sense' had significant implications in nineteenth-century discourses of art. While the term 'sensual' referred to the carnal, the term 'sensuous' implied an intellectual and a spiritual element as well as the physiological senses themselves. See Smith, *Victorian Nude* 127.

A further distinction should be made between the idea of intellectual as the mental faculties and as an overly academic dissection. This latter mode was frequently adduced as an incorrect way of portraying the nude, resulting in a sterile naturalistic work devoid of spirit. The distinction is best articulated by Ernest Chesneau, who specifically targets male nudes, which, even while anatomically and academically correct, are still 'destitute of mind.' This criticism is voiced within a broader attack on those who 'seek in the nude nothing more than a subject for pedantic scholarship' (*The Education of the Artist*, trans. Clara Bell (London, 1886) 129, 123). More generally, the English aesthetic tradition that emerged in the nineteenth century forged its identity in opposition to the perceived academism of Continental schools by emphasising what Colin Trodd calls a 'liberal empiricism' ('Academic Cultures: the Royal Academy and the Commerce of Discourse in Victorian London,' *Art and the Academy in the Nineteenth Century*, ed. Rafael Cardoso Denis and Trodd (Manchester: Manchester UP, 2000) 180).

³⁹ 'Decline of Art' 1.

⁴⁰ 'Decline of Art' 13. Other nudes that are praised include Waterhouse's *St Eulalia*, Watt's *Love and Life*, and Armitage's *After the Arena*.

kind of artistic impoverishment culminates in naturalism, where art becomes merely 'something to be measured and weighed, as any other commercial commodity.'⁴¹ *Blackwood's* thus merges its critique of the unschooled eye with stylistic analysis and a condemnation of commodity culture.

The social relevance *Blackwood's* infuses in its discussion of art is matched by the political contextualisation of Reynolds's aesthetic criteria specifically into an 1880s setting:

Reason and imagination are gifts comparatively rare, but the senses are organs pertaining to all sorts and conditions of men; therefore the arts pander to sensation, and, like popular politics, obtain applause by realising through low expedients the greatest happiness of the greatest number.⁴²

Blackwood's moves seamlessly in condemnation between political democracy and a demagoguery of taste. As fundamental biological attributes, the sensory faculties are too indiscriminately—too democratically—distributed to be accurate gauges of aesthetic value, while works that appeal solely to the senses are a betrayal of art's noble purpose. The political analogy extends to the recent expansion of the Royal Academy: the decision to increase the number of admissions is condemned as 'acting the part of certain politicians who lower the franchise, let in the flood of democracy, and with the consequent multiplication of constituents, open additional voting-booths.'⁴³ The complicity of the Royal Academy's governing council is an abuse of its hegemonic role, leaving only the art critic to stem this 'flood of democracy,' a democracy that conflates the sensual consumer and the sham artist into one threatening mass.⁴⁴ Writing a year after the Third Reform Act of 1884, the reference to the expansion of suffrage has direct contemporary resonance, yet it also recalls Mill's ambivalence towards the public as discussed in Chapter One. In this sense, an

⁴¹ 'Decline of Art' 25. The commodification of art was a particularly contentious issue for the Royal Academy as early as the time of its inception in 1768. With its ties to royalty on the one hand and its connection to the art market on the other, the Royal Academy straddled an older mode of production through patronage and the increasingly dominant power of the commerce (Colin Trodd, 'Representing the Victorian Royal Academy: the Properties of Culture and the Promotion of Art,' Barlow and Trodd).

⁴² 'Decline of Art' 3.

⁴³ 'Decline of Art' 5. *Blackwood's* comments make sense when read in light of the passing of the Third Reform Act in 1884 and the Redistribution Act in 1885, which significantly extended suffrage.

⁴⁴ The reviewer writes of the critic's task, '[t]he worst works must be eliminated, and when the gross mass has been well winnowed, the chaff can be thrown on one side, and the good grain weighed or measured' (2). For a discussion of the formation of the Royal Academy, see Gordon Fyfe, *Art, Power and Modernity: English Art Institutions, 1750-1950* (London: Leicester UP, 2000).

art review that takes issue with a facile and censorious moralism is allied to Mill's broader social and political commentary. Both are responding to changes in the composition of a public: Mill, the public of the enfranchised, and *Blackwood's*, the public of art patrons.

This convergence of issues of the public, art, subjective vision, and regulation was already evident in the 1857 debates over the passing of the Obscene Publications Act. Challenging Lord Campbell's Bill on the grounds that it failed to discriminate between high art and obscene prints, Lord Lyndhurst presented a hypothetical situation involving an uncultured informer's or policeman's encounter with a Correggio print:

[He] sees in a window something which he conceives to be a licentious print ... He sees the picture of a woman stark naked, lying down, and a satyr standing by her with an expression on his face which shows most distinctly what his feelings are and what is his object.⁴⁵

Ignorant of the classical protocols which provide a conceptual template that contextualises and elevates, he sees in a celebrated work only material for prosecution. Jupiter and Antiope are ousted from a mythological empyrean to a smutty scene, and a great master's work is seized and destroyed. In response, Lord Campbell reassured his opponents that there 'was a broad and marked distinction between such pictures [as Correggio's]' and 'abominable prints ... which possessed no artistic merits, and which could only be regarded with aversion by every right-minded person.'⁴⁶ Campbell takes for granted that this distinction is self-evident and that 'artistic merits' can be recognised communally, but the anxieties about the nude in art and the effort expended to differentiate the artistic nude from pornographic versions suggest otherwise. On the contrary, the boundary between the two had to be constantly restated and reinforced, and legitimate images continually sectioned off from illegitimate ones. The targeting of prints and photographs used for academic study in the decades following the passing of the Act blurred this boundary further: prosecutions were made despite protestation that these were artistic aids. That such actions were taken against nude prints in spite of claims of academic intent suggests that the distinction between art and pornography lay in perceived final usage rather

⁴⁵ *Hansard*, vol. 146 (25 June 1857): col. 331.

⁴⁶ *Hansard*, vol. 146 (25 June 1857): col. 337.

than in original purpose. If this legislation sought to regulate obscene publications, then its focus needed to be on these publications' destination and once again, censorship's focus is shifted from the contents of the image to its audience, to its public.

From Mid- to Late-Century: The Genealogy of Regulation

That the British Matron exchange debated the obscenity of paintings in the Royal Academy and the Grosvenor Gallery would seem to suggest that Lord Lyndhurst's fears had eventuated. Critics such as Alison Smith and Philip MacEvansoneya rightly identify an added urgency in attitudes towards the nude in the 1880s, spurred on by the social and political exigencies of the decade.⁴⁷ The social purity movement during this period focused on the repeal of the Contagious Diseases Act, targeting the hypocrisy of male upper-class vice. More specifically, 1885 was a critical point which saw the setting up of the National Vigilance Association whose prosecution of Vizetelly was discussed in Chapter Three, the publication of William Stead's sensational exposé of prostitution and white slavery, 'The Maiden Tribute of Modern Babylon' in the *Pall Mall Gazette*, and the subsequent passing of the Criminal Law Amendment Act.

Most obviously, the issue of life modelling was caught up in the momentum of these agitations. Defenders emphasised its pedagogical role and the professionalism of both artist and model: Hamerton asserts in Ruskinian terms that life drawing in the Royal Academy was all 'work and discipline,' and that models are 'a respectable class of people' employed in 'a business which is all patience'; The *Artist* insists on the respectability of the model, arguing that her requisite physical beauty would be destroyed through dissipated living.⁴⁸ Nonetheless, the figure of the female model was the site of contradictory projections: as an unclothed female, she contravened Victorian proprieties, yet an artistic rendering elevated this infringement to high art, and the resultant instability of the nude meant that its artistic legitimacy

⁴⁷ Smith, *Victorian Nude*; Philip MacEvansoneya, "A Libel in Paint": Religious and Artistic Controversy Around P. H. Calderon's *The Renunciation of St Elizabeth of Hungary*, *Journal of Victorian Culture* 1.2 (1996).

⁴⁸ Hamerton, *Man of Art* 37; 'Models and Morals,' *Artist* 6 (1885): 331.

was never fully assured.⁴⁹ Moreover, professional models were largely drawn from the working classes, a social status in tension with the mythological subjects for which they posed. The categories of model, actress, and prostitute were merged in the public imagination into a compound figure of the public woman.⁵⁰ As working women taking part in economic transactions, they impinged into the public masculine world of commerce and exchange and physically breached the borders of the domestic realm, thus violating the ideology of separate spheres. As such, the model, as was the prostitute, was considered an unruly and dangerous figure.⁵¹

In this sense, the British Matron controversy can be situated within a greater movement against vice and immorality in the 1880s. But equally, it is also possible to view the affair in the context of the history of the regulation of the visual arts, a perspective that is less emphasised in extant studies of the nineteenth-century nude. To do this, I return to the incipience and early years of the public gallery. Agitations for a public gallery had already begun in the latter part of the eighteenth century, with intermittent calls to establish a national collection, but the state at this point was reluctant to commit to such a project.⁵² Private collections could be viewed by appointment, but access was necessarily limited and the shift from a private to a public trust did not occur until the early decades of the nineteenth century.⁵³ The underlying impetuses and explanations of this shift are complex but in his history of the National Gallery, Jonathan Conlin singles out three specific functions of the public collection: as military monuments, artworks would have commemorative functions; to improve British manufacturing by providing the means of cultivating

⁴⁹ France Borzello, *The Artist's Model* (London: Junction, 1982) 73. Borzello thus concludes that the female nude model represented 'a clash between the values of art and those of life.' For further discussion of models and specific paintings, see Ilaria Bignamini and Martin Postle, ed., *The Artist's Model: Its Role in British Art from Lely to Etty* (Nottingham: Nottingham U Art Gallery, 1991) and Martin Postle and William Vaughan, ed., *The Artist's Model: From Etty to Spencer* (London: Merrell Holberton, 1999).

⁵⁰ There was, however, evidence that on occasion, the professions of model and prostitute did indeed overlap. See Martin Postle, 'Behind the Screen: The Studio Model,' Postle and Vaughan 61.

⁵¹ The connection is made explicitly by 'Senex,' whose letter to the *Times* denounces the exhibition nudes as 'mute yet speaking evidences of the sad fate of other English girls—once as innocent and modest as they are—whom hunger and want have driven to one of two courses, each equally humiliating if not quite equally deplorable' (*Times* 22 May 1885).

⁵² Noted figures in the art world such as Reynolds, James Barry, and John Flaxman had discussed the possibility of a public gallery, and there were moves to acquire Sir Robert Walpole's collection in 1777, which eventually went to Catherine II of Russia in 1779.

⁵³ Giles Waterfield, 'Palaces of Art?' Waterfield 17-28. See also Conlin for a discussion of the eighteenth-century origins of the National Gallery.

taste in Britain's labourers; and to preserve a historical canon by collating the nation's best works.⁵⁴ This movement also followed a shift in the balance of social and political power from the aristocracy to the bourgeoisie, and in the art world, a shift in the modes of production from individual patronage to a commercial art market. The Royal Academy straddled these two paradigms of production (see note 41), while the first public gallery, the Dulwich Picture Gallery, formed in 1817, emerged from commercial enterprise, but a fully state-sponsored public exhibitory space was not established until 1824, with the founding of the National Gallery through the state's purchase of the collection and Pall Mall residence of the deceased banker, John Julius Angerstein.⁵⁵

In addition to the three practical aims identified by Conlin, underlying the idea of the public gallery was also the belief in the power of art to educate and elevate, and hence the issue of public accessibility recurs in discussions throughout the century.⁵⁶ If art was to have a social function, then the question of its audience becomes crucial as well. The founding of the National Gallery can be seen in the context of the drive to provide 'rational' recreation for the working classes from the 1820s onwards, itself a response to fears of Chartism and urban unrest. The provision of edificatory amusements, it was hoped, would direct working-class energy away from both grosser pastimes such as drinking and cockfighting and subversive social movements.⁵⁷ Public institutions such as galleries and museums were held up as positive and productive alternatives to traditional working-class pursuits, inculcating

⁵⁴ Conlin, 47.

⁵⁵ The Dulwich Picture Gallery was formed after the state refused to purchase the collection of old masters amassed by the art dealer Noel Joseph Desenfans. Desenfans had been under instruction from King Stanislas Augustus of Poland to assemble the core of a national collection, only to be stymied by Augustus's abdication. Desenfans's heir, Sir Francis Bourgeois, ultimately bequeathed the collection to Dulwich College.

⁵⁶ Charlotte Klonk contends that the National Gallery's origins were enmeshed in debates over class interests and definitions of nationhood that were current in this period, with the passing of the 1832 Reform Act. As such, its founding was inextricably connected to questions of public and the composition of this public ('The National Gallery in London and its Public,' *Consumers and Luxury: Consumer Culture in Europe 1650-1850*, ed. Maxine Berg and Helen Clifford (Manchester: Manchester UP, 1999) 230-1).

⁵⁷ See Peter Bailey, *Leisure and Class in Victorian England: Rational Recreation and the Contest for Control, 1830-1885* (1978; London: Methuen, 1987) for an account of the rational recreation movement.

a refined sensibility whether understood as the rightful heritage of the common worker or as an instrumental form of social control.⁵⁸

This idea of culture, and specifically, the culture of the visual arts, as social panacea and spiritual restorative, is expressed by Charles Kingsley, who, in 1848, exhorts England's labourers to find solace in the offerings in public galleries:

Picture-galleries should be the workman's paradise, and garden of pleasure, to which he goes to refresh his eyes and heart with beautiful shapes and sweet colouring, when they are wearied with dull bricks and mortar, and the ugly colourless things which fill the workshop and the factory.⁵⁹

For Kingsley, the beauty of nature is God's blessing to us—it is his 'handwriting' revealed to man—and while the 'foul alley[s]' and 'crowded lodging[s]' of the metropolis offer no such bucolic succour, a stroll through the National Gallery will more than suffice.⁶⁰ This is where 'the townsman may take his country walk,' and for the 'toil-worn worker,' the beauty on display acts as a promise of beauty in the hereafter, an escapist yet placatory foretaste of a Christian paradise.⁶¹ Kingsley is perhaps overly sanguine about the meliorative effects of the visual arts: the transformation in the street urchin is immediate, his 'countenance seem[ing] to grow handsomer and nobler on the spot' as he 'drink[s] in and reflect[s] unknowingly, the beauty of the picture he is studying'; the labourer comes to realise that the noble figures depicted are '*men* of like passions with himself,' and discovers in this moment of fraternal identification a new sense of self-worth.⁶² Art in Kingsley's formulation becomes a kind of elixir, its transformative powers and the sense of shared humanity it fosters allowing the labourer to transcend urban degradation and poverty. Yet the cultural topography Kingsley maps onto the London cityscape is open to an alternative interpretation, and the model of beneficent exchange he envisions is easily and dangerously invertible. In his utopian vision, art elevates and the Gallery space itself is geographically a beacon amidst its industrial environs. Viewed less optimistically though, galleries are not so much interspersed sanctuaries

⁵⁸ Again, it is clear that the public projected in this ameliorative ideal is different from Reynolds's republic of taste comprising of free, gentlemen citizens.

⁵⁹ Charles Kingsley, *Politics for the People* (London, 1848) 5.

⁶⁰ Kingsley 5, 6.

⁶¹ Kingsley 5, 6.

⁶² Kingsley 6.

nourishing the urban surrounds, but isolated pockets under siege to a monstrous and inexorable force.

This tension between the ideas of culture as a civilising power and as fragile artefacts under threat is evident in mid-century inquiries into the efficacy of public art institutions. Debates over the ideal location for the National Gallery, for instance, raised concerns over the effect of the urban environment on artworks. The 1850 Select Committee on the National Gallery, appointed to consider the housing of the Gallery, and the ‘best mode of Preserving and Exhibiting to the Public the Works of Art given to the Nation,’ investigated the potential harm caused by industrial and urban effluvial deposits—sulphurous discharge, miasmata, dust, and smoke—on paintings.⁶³ The place of the Gallery’s visitors in this matrix of harm is a complex and ambivalent one. The continual flow of patrons opens up physical channels through which external contaminants can enter into the building. At the same time, the multitudes are bearers of pollution, tracking in mud on their shoes or leaving behind detritus, such as food scraps and other refuse. In a further slippage though, the crowds themselves become sources of pollution, as concern is voiced over the effects of *human* effluvia, of sweat, breath, or even, as the Keeper of the National Gallery, Thomas Uwins, testifies, ‘little accidents ... which are constantly visible upon the floors’ by the offspring of ‘the lower class of people.’⁶⁴ The ‘dirt and dust’ of London that is physically transferred by the crowds is metonymically transferred onto the crowds, such that they are at once, channels, carriers, and sources of injury.⁶⁵ Yet there is still a reluctance to relinquish the original educative intentions of the Gallery. Echoing Kingsley’s approach to the visual arts, the Committee Report stands by the claim that ‘one of the great objects of all public Institutions is, if possible, to form the public taste, and gratify the public eye,’ but concedes that further regulation is warranted, as for instance, the exclusion of young children, following the practice of the British Museum, and greater vigilance in policing.⁶⁶

⁶³ Great Britain, House of Commons, *Select Committee on National Gallery. Report, Minutes of Evidence, Appendix, Plan, Index*, Parliamentary Papers 15.1 (1850): iii.

⁶⁴ *Select Committee on National Gallery* para. 83. See also the 1857 Report on the National Gallery Site Commission, where the Dean of St Paul’s questions the ‘bad effects’ of ‘human exudation’ (Great Britain, House of Commons, *Royal Commission on Site for National Gallery. Report, Minutes of Evidence, Appendix, Index*, Parliamentary Papers 24.1 (1857): para. 1197)

⁶⁵ *Select Committee on National Gallery* vii.

⁶⁶ *Select Committee on National Gallery* v.

That there is concern over ‘improprieties’ in usage of the Gallery—‘as a place to eat luncheons in, and for refreshment, and for appointments’—implies a corresponding proper usage and is thus an acknowledgement of the founding ideology of the institution.⁶⁷ That remedial measures encompassed monitoring the behaviour of the Gallery’s patrons suggests that, in this instance, the regulation of the consumption of the visual arts was conceived as an issue of public order.

At the centre of this anxiety was the encounter between the work of art and its audience, a confrontation appositely expressed by Matthew Arnold’s opposition between Culture and Anarchy. Insofar as Arnold defines culture as ‘the best that has been thought and known in the world,’ the National Gallery as the depository and exhibitory site of allegedly the nation’s and Europe’s finest works would seem to be the apotheosis of visual culture.⁶⁸ Like Kingsley, Arnold bestowed a great social power to culture. But where Kingsley saw art as a means of realising a socialist ideal through the mutual appreciation of beauty, for Arnold, culture is the fostering ground for a new class of governing elite. Writing in 1867, Arnold addresses what he sees as a crisis in authority. The traditional holders of power, the aristocratic Barbarians, possess sweetness but not light: their ‘high chivalrous style’ is testament to a sensibility to beauty in its external forms, but the paucity of the interior attributes of reason or intelligence render them ineffectual rulers in an age of expansion.⁶⁹ Nor yet has the emergent Philistine middle class provided a viable alternative, abjuring sweetness and light in its adherence to a sterile and instrumental machinery, whether of free trade, reform, industry, or wealth. To the working classes, Arnold concedes a kind of ruffian honesty, but this is as yet an ‘inchoate and untrained’ virtue, and thus at some remove from perfection.⁷⁰ Wed to a philosophy of self-gratification, the hegemonic classes lack the fortitude to govern, while the resultant fragmentation of society has led to a loss of a national vision. This atomisation ensures that power inheres in no group, which, while safeguarding against individual tyranny, is

⁶⁷ *Select Committee on National Gallery* para. 82. That there are such ‘improprieties’ would also suggest that readings of art institutions strictly as dispensers of an official culture fail to account for resistance in usage and reduce the complex interactions into a purely instrumental account of art and culture.

⁶⁸ Matthew Arnold, *Culture and Anarchy and Other Writings*, ed. Stefan Collini (Cambridge: Cambridge UP, 1993) 79.

⁶⁹ Arnold, *Culture and Anarchy* 90, 102.

⁷⁰ Arnold, *Culture and Anarchy* 97.

defenceless against the threat of anarchy with the spread of this 'doing as one likes' philosophy to the Populace or residuum.⁷¹ Thus, to combat this threat, Arnold argues for the reassertion of the principle of authority: 'We discover that only in right reason can we get a source of sure authority; and culture brings us towards right reason.'⁷² In the progression from culture to right reason to sure authority, Arnold raises the status of culture from effete academism to political colossus. Culture, defined as the 'love of perfection'—the love, and also the study and pursuit of perfection—is the cultivation of the best self, and it is from this pool of cultivated individuals that Arnold proposes to draw the nation's rulers.

Arnold sets up the conceptual categories as well as the rhetorical terms which were to prevail in discussions of the nude throughout the latter part of the century. The eponymous pairing of 'Culture and Anarchy' recurs in various guises throughout the essay: 'order and security' against 'anarchy and social disintegration'; harmony and perfection against error and confusion; best selves against ordinary selves.⁷³ These terms are reminiscent of Reynolds's binaries, but are placed in the social and political context of the 1860s.⁷⁴ Culture as defined by Arnold becomes a mandate for reform and licence to speak as a universalising and national voice: culture is 'not satisfied till we *all* come to a perfect man,' and the exercise of any authoritative power or coercive force is legitimated as the pursuit of perfection.⁷⁵

The interplay between culture, order, and authority is consonant with the mid-century concerns over National Gallery attendance and more generally, the efficacy of culture as a civilising process. Thus, while Kingsley praises the British Museum in

⁷¹ Arnold, *Culture and Anarchy* 105. Arnold reconfigures traditional class boundaries, claiming that the diligent labourers of the working class share with the Philistines an over-reliance on industrial machinery.

⁷² Arnold, *Culture and Anarchy* 151.

⁷³ Arnold, *Culture and Anarchy* 89.

⁷⁴ The ominous prognosis of *Culture and Anarchy* was in part Arnold's response to the 1866 'Hyde Park riots,' when members of the Reform League marched to Hyde Park to protest the defeat of the Reform Bill. See Edward Alexander, *Matthew Arnold, John Ruskin, and the Modern Temper* (Columbus: Ohio State UP, 1973); Linda Dowling, *The Vulgarization of Art: The Victorians and Aesthetic Democracy* (Charlottesville: UP of Virginia, 1996). John L. Mahoney suggests that Arnold's cultural ideal, with art given a socio-political function, is anticipated by Reynolds. This may be true to some degree, but we need to consider the different contexts of the problems each commentator was addressing ('Reynolds's "Discourses on Art": The Delicate Balance of Neoclassic Aesthetics,' *British Journal of Aesthetics* 18.2 (1987): 130). Catherine Gallagher finds similarities between Mill's *On Representative Government* and *Culture and Anarchy*, which suggest a similar anxiety about an overburdened body politic (*The Industrial Reformation of English Fiction: Social Discourse and Narrative Form 1832-1867* (Chicago: U of Chicago P, 1985) 228-37).

⁷⁵ Arnold, *Culture and Anarchy* 78-9.

which is everywhere evident ‘order, care, attention,’ critics of gallery visitors rue the disturbance to order, the lack of care, and the want of attention of these offenders in their improper usage of the gallery space, as evident, for example, from Uwins’s Select Committee testimony.⁷⁶ A similar vocabulary is evident in the 1880s. The 1885 *Blackwood’s* review recalls this Arnoldian binary: in pointed response to the President’s selection rationale of ‘variety in aim and variety in expression,’ the reviewer maintains that the contents of this particular exhibition are ‘not merely varied ... but absolutely *chaotic and purposeless*.’⁷⁷ James Jackson Jarves in 1874 claims that the noble ideals of the classical nude have fallen victim to ‘the cravings of *disordered* imaginations in shapes of absolute sensuality.’⁷⁸ Arnold writes of ‘outbreaks of rowdyism’ in the descent to social and political anarchy, yet the phrase is as apt a description of unruly gallery patrons as of *Blackwood’s* dismissal of the Royal Academy’s haphazard offerings or a critique of a national aesthetic.⁷⁹

In contrast to anarchy and disorder, Arnold posits the art of Ancient Greece as the exemplar of perfection, lauding its repose and grace, ‘a serenity which comes from having made order among ideas and harmonised them.’⁸⁰ That the terms echo those employed in the legitimation of the nude is not surprising, given that both Arnold and the defenders of the nude share a Victorian valorisation of certain Hellenic qualities.⁸¹ David J. DeLaura claims that Arnold’s Hellenism is heavily biased towards Apollonian at the expense of Dionysian elements, privileging the more conservative virtues of balance, harmony, and repose.⁸² But these were precisely the terms—the ‘noble simplicity and sedate grandeur’ that Winckelmann

⁷⁶ Kingsley 184.

⁷⁷ ‘Decline of Art’ 6, my emphasis.

⁷⁸ James Jackson Jarves, ‘The Nude in Modern Art and Society,’ *Art Journal* n.s. 13 (1874): 65, my emphasis.

⁷⁹ Arnold, *Culture and Anarchy* 85.

⁸⁰ Arnold, *Culture and Anarchy* 90.

⁸¹ *Blackwood’s*, for example, defends the year’s nudes as being ‘singular for repose, reticence, and decorum’ (‘Decline of Art’ 12). Hamerton makes explicit reference to the neutrality of expression in Greek sculpture: ‘the right treatment of the naked figure requires a minimum of expression in the face; and the finest art has the calm of the Greek statues’ (*Man in Art* 43).

⁸² DeLaura traces Arnold’s influences back to the eighteenth-century German Hellenists, such as Goethe, Schiller, and Winckelmann, but argues that Arnold’s one-sided appropriation presents a more tempered version than the more rounded and hence more factual Hellenism of Pater’s (*Hebrew and Hellene in Victorian England: Newman, Arnold, and Pater* (U of Texas P, 1969)).

saw in *Laocoon*—that appealed in the battle to legitimate the nude.⁸³ Using a visual metaphor that recalls Ruskin's innocent eye, Arnold describes the Hellenic ideal as a synthesis of the sweetness of beauty and the light of knowledge: '[t]o get rid of one's ignorance, to see things as they are, and by seeing them as they are to see them in their beauty.'⁸⁴ Claims to a privileged aesthetic gaze and the corresponding allegation that the moralist fails to see the beauty of the artistic nude thus follow in this Arnoldian mould. Within this justificatory framework, obscenity is the result of a prurient vision that is impaired by falsifying conventions, conventions which can be exposed by the artist's eye—or Ruskin's innocent eye—to reveal a truth that is synonymous with beauty.

The British Matron's uncompromising moralism, on the other hand, aligns her with Hellenism's counterpart, Hebraism. For Arnold, Hellenism and Hebraism are the two propulsive forces of civilisation, both with the common goal of attaining perfection, but pursued by different means. Hellenism, with its quest for intellectual enlightenment, is the province of light and knowledge; by contrast, Hebraism focuses on doing rather than knowing, on proprieties of conduct, the demands of duty, and the importance of obedience: '[t]he governing idea of Hellenism is *spontaneity of consciousness*; that of Hebraism, *strictness of conscience*.'⁸⁵ Neither Hellenism nor Hebraism are sufficient of themselves, and the two should be complementary rather

⁸³ Johann Winckelmann, *Reflections on the Painting and Sculpture of the Greeks*, trans. Henry Fuselli (1765; London: Routledge/Thoemmes, 1999) 30.

⁸⁴ Arnold, *Culture and Anarchy* 130.

⁸⁵ Arnold, *Culture and Anarchy* 128. Pater makes a similar distinction as Arnold in the context of its implications for art. Greek sensuousness, he claims, 'does not fever the conscience: it is shameless and childlike.' Christian asceticism, with its distrust of the sensuous, 'has from time to time provoked into strong emphasis the contrast or antagonism to itself, of artistic life, with its inevitable sensuousness' (*The Renaissance: Studies in Art and Poetry*, ed. Donald L. Hill (1893; Berkeley: U of California P, 1980) 177).

Arnold's terms also recur in the debate over the nude. Art critic P. H. Rathbone locates the origins of an excessive prudery that is in fact a clandestine prurience outside of Aryan culture, setting up an opposition between 'Asiatic' misogyny and European civilization in a manner echoing Arnold's Hebraic and Hellenic duo. The 'unholy origin of the objection to the nude as a fit subject for art' can be found in Asiatic ideas that took hold with the Turkish invasion in the fifteenth century. As chattel, women were merely objects of pleasure, and the female form was thus stripped of its nobility only 'to be hidden, partly from shame, but chiefly for the purpose of stimulating exhausted passion.' The legacy is a failure to recognise the ideal female form, as exemplified by perverse ideas of beauty in the distortions of contemporary female attire: '[t]he extreme development of the low dresses ... when the stays crushed up the breasts into suggestive prominence, would surely have been checked had the eye of the public been properly educated by familiarity with the exquisite beauty of line of a well-shaped bust.' In this instance, sartorial convention and the innocent eye are in conflict ('The Nude in Art: Its Defense Before the British Social Science Congress,' *New York Times* 10 November 1878. Originally published in the *London Standard* 28 October 1878).

than antagonistic concepts, functioning ideally as harmonising checks of the excesses of the other. The current historical moment sees the ascendancy of the Hebraising impulse, of which Puritanism is one of its most visible legacies, having arisen in reaction to the Hellenic excesses of the Renaissance. The evangelical tradition from which the purity movement emerged places it firmly on this side of Arnold's opposition and part of the Hebraising zeitgeist. The Hebraic project is characterised by an overriding consciousness of sin, a one-sided outlook that is akin to the zealotry—as alleged by her detractors—of the British Matron's hunt for the obscene. In this sense, the debate over the nude is as much a contest in the field of art as it is a part of a greater dialectic informing Victorian thought, a part of a broader discussion on the concepts motivating the nation as a whole.

In comparison to Arnold's *Culture and Anarchy*, I would like to look at an essay written two years later by Sidney Colvin.⁸⁶ These two texts are articulated from oppositional ideological positions: where Arnold insists upon the moral force of art and more generally of culture, Colvin argues for an irrevocable separation of art and morality. Presaging the mutually exclusive domains of pen and brush that Whistler was to insist upon in court, Colvin claims that the impressions of art which appeal through 'the delights of form and colour' are not 'translateable' into literature or language, the medium par excellence of moral edification.⁸⁷ To search for morality in art results in a sterile naturalism, 'mak[ing] fidelity to the real the foremost of such virtues, and class[ing] incorrect drawing sinful, as a misrepresentation of the works of God.'⁸⁸ Colvin's position aligns rather with continental theory via Winckelmann and others, predicated on a separation of the beautiful from the agreeable, the ideal from the real. Enshrining a neo-Kantian disinterested contemplation, Colvin rejects for art any utility value. Colvin delineates a hierarchy of senses, maintaining a similar Cartesian split as the *Blackwood's* reviewer, but proffering a more stratified model of the senses where *Blackwood's* indiscriminately groups them together as purely bodily functions. At the top of Colvin's hierarchy are man's 'two most intellectual tastes,' sight and hearing, whose cerebral superiority rests in their

⁸⁶ The essay is anonymous, but Alison Smith attributes authorship to Colvin. She writes that it is 'presumably' Colvin (*Victorian Nude* 113) but I have not found any substantiating evidence. For convenience, I have followed Smith in designating Colvin as author.

⁸⁷ [Sidney Colvin], 'Art and Morality,' *Westminster Review* n.s. 35 (1869): 157, 158.

⁸⁸ [Colvin] 159.

disinterestedness: the pleasures associated with sight and hearing are ‘independent of all direct utility in [their] object.’⁸⁹ The sense of taste resides at the other extreme: ‘its pleasures are intimately connected with the alimentation of the body; tasting and eating, the sensation and the utility are inseparable.’⁹⁰ By extension, the pleasures of the visual arts appeal to the highest sense alone, that of sight, and the act of painting itself elevates by expunging the tangible elements of the object, sublimating the physicality of experience into an ideality mediated through reason and the imagination. Thus at one remove, we no longer have the ‘scene’ in its material existence, but a ‘sentiment of the scene,’ and the ‘monopolist’ nature of the lower senses—monopolist because they are the most subjective and self-interested, according to Colvin—gives way to the inclusiveness of communal appreciation.⁹¹ Such is the difference between the aesthetically beautiful and the physically pleasurable, the latter the province of taste and smell, and thus confined to an ‘inferior class to which we do not allow the name of artistic.’ The bias against the mechanical recalls Reynolds, but Colvin rejects the explicitly political aspects of the critique vulgar consumerism.

In Arnold and Colvin, we see two antithetic traditions: on the one hand, an understanding of art as a moral force which confers on it a powerful social agency; on the other hand, what might be called the aesthetic position that espouses the elements of art for art’s sake, divorcing it from the extraneous world and divesting it of social utility. What is surprising is that defences of the nude in the latter part of the century seem to merge elements from these divergent positions. I am not claiming that they reconciled these ideologies but that elements of each are present in much of the commentary. These criticisms take Arnold’s framework and rework it from an overtly social perspective to the aesthetic, while Colvin’s ranking of the senses provides a useful framework for understanding the distinction between art and obscenity that was reinforced repeatedly throughout the century.⁹² Colvin’s terms by and large define art as it was understood by the commentators cited above, as

⁸⁹ [Colvin] 164.

⁹⁰ [Colvin] 165.

⁹¹ [Colvin] 166.

⁹² Thus, for instance, Henry Mayhew claims in his 1850 investigation of the urban labouring class, that ‘[t]o cultivate the sense of the beautiful is necessarily to inculcate a detestation of the sensual’ (*London Labour and the London Poor: The Classical Study of the Culture of Poverty and the Criminal Classes in the 19th-Century* (1861; New York: Dover, 1968) 42.

creations that appeal to the higher faculties, presenting the viewer with a visual experience that mediates its subject through intellectual, spiritual, and imaginative means: the visual image encapsulates 'the spirit of the scene,' rather than the scene itself, as one RA lecturer asserted.⁹³ Concomitantly, Colvin's category of non-art comprising of works which elicit bodily responses is a fitting description of art's other, pornography. This latter form of consumption is a somatic or kinetic experience, one that aims to move physically rather than intellectually or emotionally.⁹⁴ Just as taste, and to a lesser degree, smell, operate within a limited sphere, their effect extending only to the individual's immediate experiential range, so too is the pornographic effect of obscene works inwardly and narrowly oriented. The difference drawn between self-interest and disinterest informs both Colvin's ranking of the senses and Arnold's social formulation of culture. The perceptual basis of Colvin's analysis maps onto Arnold's socio-political one, and both in turn onto the art/pornography binary: the sterile solipsism of the lower senses is akin to that of the individual driven by a *laissez-faire* mentality, just as the carnal pleasures of pornography were thought to be solitary and equally unproductive.

Arnold's opposition between the order of social authority and the chaos of civic unrest is rearticulated in Colvin's hierarchy of perceptual faculties. The idea of order suggests the processes of separation and stratification. The spatial distance maintained in viewing a work of art preserves a sense of separation between the viewing subject and the visual object and the myth of disembodied consumption is sustained. By contrast, exercising the sense of taste involves an encounter that dissolves the boundaries between the sensory subject and the comestible object. The act of digestion is one of physical incorporation: the form and structure of both subject and object are disturbed and intermingled in a manner that brings the bodily nature of consumption to the fore. Mary Douglas defines pollution as that which threatens the boundaries and violates the order of any given system and from this

⁹³ H. O'Neil, 'On the Character of Nature in General, and on the Mission of Art.' A lecture delivered to the Students of the Royal Academy, February 12, 1866. *Gentleman's Magazine* n.s. 1 (1866): 851-64, 864.

⁹⁴ For a discussion of pornography's historical affinity with philosophical materialism, see Margaret C. Jacob, 'The Materialist World of Pornography,' *The Invention of Pornography: Obscenity and the Origins of Modernity, 1500-1800*, ed. Lynn Hunt (New York: Zone Books, 1993); and Michelson.

perspective, Colvin's lower senses are intrinsically dangerous operations.⁹⁵ Douglas's anthropological observations also provide a link between Colvin's policing of the aesthetic sensibilities and the earlier policing of National Gallery visitors and the recuperative measures taken to protect the Gallery's paintings. For Douglas, dirt is 'matter out of place'; it is a substance that exists not in isolation, but within a specific locational—or dislocated—context.⁹⁶ Contaminative deposits on paintings compromised materially the substance of these works but according to Douglas's model, conceptually, these deposits as displaced matter also threatened the works' systemic integrity. So too was the circulation of visitors a disturbance of the Gallery space, while concern over ventilation and points of ingress and egress bespoke an unease over the Gallery's boundaries. Censorship as exercised by vigilance societies or law enforcement sought to eradicate the metaphorical 'dirt' of obscene materials and thereby eliminate a moral disorder, while the controversy over actual dirt on paintings and those who transfer this dirt centred on the issues of social and logistical order.⁹⁷ The orderly response of Colvin's aestheticising gaze is defined against the disorderly one of a bodily consumption: the somatic response to the nude instigates a kind of bodily anarchy, anarchical because these responses were felt to be uncontrollable. A common binary shapes these various forms of control, whether of the gaze or of the Gallery's public.

It is thus evident that the issue of the morality of the nude was as much about the body of the viewer as the body represented. Lynda Nead makes this point in the context of the eighteenth-century excavations at Pompeii. Nead contends that the encounter with these artefacts was a testing ground for the hegemonic bourgeois male subject, an opportunity, if not a demand, to demonstrate a sovereign control over the body and its responses. The bourgeois viewing subject must necessarily be 'beyond incrimination,' his body 'still, composed, and unified, as opposed to aroused, disturbed, and fragmented.'⁹⁸ Over a century later in the latter part of the nineteenth century, a similar aesthetic persisted; moreover, the Pompeian references in works such as Poynter's *Diadumenè* recall this particular historical epoch, but the

⁹⁵ Mary Douglas, *Purity and Danger: An Analysis of Concepts of Pollution and Taboo* (London: Routledge and Kegan Paul, 1966) 121.

⁹⁶ Douglas 35.

⁹⁷ See Cleere for a discussion of the picture cleaning controversy.

⁹⁸ Nead, 'Bodies' 205. See also Pease.

context had changed substantially. In the eighteenth century, access to the unearthed artefacts was limited, displays being housed in secret rooms and Latin quotations left untranslated. By contrast, the controversy over the 1885 nudes focused in large part on their visibility; indeed, several of the letter writers called for a form of segregated display in the manner of the museum in Naples. In line with the shift from private to public exhibition in the intervening years, there was a shift in focus to, and changing attitudes towards, the audience. In Nead's scenario, the nude was a testing ground for bourgeois manhood; by the 1880s, it had also become the damning ground for susceptible viewers, defined not just by class, but also by gender and age. If the aim of public exhibition was in part to facilitate public access, this call for a greater inclusiveness brought with it in turn the problem of audience.

Measures for the regulation of visual consumption centre on the relationship between audience and the artwork. While the issues brought up in mid-century inquiries focused on the effect of the viewer on the artwork through the contaminative effects of bodily and environmental effluvia, the concern over obscenity in art reverses the direction of influence, investigating the effects of the artwork on the vulnerable viewer. The vulnerable viewer is in danger because she sees pornography in place of a work of high art, a naked body in a mythological tableau. The ostensible issues are the individual and social consequences of the encounter with a dangerous work of art, but conceptually, we have not moved far from Arnold's view of art as salvation, for to speak of the civilising or the corrupting force of art is to speak of the same things: the power of art—whether positive or negative—and its transformative effect on its viewers. In a less explicit move, however, there is a further shift in the relationship between work and spectator. In Chapter Four, I discussed the instability of the scientific status of Ellis's *Sexual Inversion*; a similar uncertainty characterises the reception of the nude, and herein lies its central contradiction: the nude is lauded as the epitome of artistic endeavour, yet a formulation that defines the undraped figure according to the sensibility of its viewer holds it strangely hostage to this viewer. If the most efficient means of regulating the visual obscene is by eradicating the polluting agent at its source, this contradiction suggests that the regulatory task is stymied from the start as causality itself becomes obscured. Censorship claims to protect the sensitive viewer from

corruption, yet it is unclear whether it is the nude that corrupts the viewer or the viewer that corrupts the nude.

In fact, this contradiction is encapsulated in what was considered by Arnold and others as the apogee of Hellenic purity, the sculpture of classical Greece. According to Walter Pater, the limitations of sculpture—it has available fewer tools for an elucidation of detail and context when compared to the tonal subtleties of painting and the discursive capacity of poetry—entail that it is the art that most closely approximates pure form. As such, sculpture best demonstrates the Hellenic ideals of *Heiterkeit*—‘blitheness or repose’—and *Allgemeinheit*—‘generality or breadth.’⁹⁹ Following Winckelmann, Pater commends the purity of classical sculpture’s ‘broad, central, incisive lines’ and its purging of the grotesquery of excessive passion and the febrility of complex action to retain ‘its central passivity, its depth and repose.’¹⁰⁰ These terms resonate with the vocabulary of legitimization used in defence of the nude. If the kinetic effect of pornography grips the body in a grotesque distortion, then the calm contemplation of the artistic nude aims for the stasis of the classical *Heiterkeit*. If pornography appeals to its user in a corporeal solipsism, then the nude transcends this narrow bodily focus to approach in its universal beauty the *Allgemeinheit* of the Greeks. Yet Pater moves beyond Winckelmann to acknowledge the nascent presence of ‘the romantic temper’ even in the Hellenic ideal:¹⁰¹

Again, the supreme and colourless abstraction of those divine forms, which is the secret of their repose, is also a premonition of the fleshless, consumptive refinements of the pale, medieval artists. That high indifference to the outward, that impassivity, has already a touch of the corpse in it ... The suppression of the sensuous, the shutting of the door upon it, the ascetic interest, may be even now foreseen.¹⁰²

The relationship between Pagan and Christian—or alternatively, Arnold’s Hellenism and Hebraism—is less antithetic than continuous; the sculptural exemplars of the classical ‘abstracted gods’ in fact ‘wander as the spectres of the middle age.’¹⁰³ The classical virtues themselves invite less propitious readings: tranquil pallor suggests a

⁹⁹ Pater 170.

¹⁰⁰ Pater 172, 173.

¹⁰¹ Pater 178.

¹⁰² Pater 179.

¹⁰³ Pater 179.

ghostly attenuation while a self-sufficient composure is tinged with deathly torpor. The 1885 *Blackwood's* review describes a proper response to the undraped figure as one in which '[p]assion cannot intrude. Such is the spell of beauty and perfection as personified by the Greeks, and apostrophised by Winckelmann.'¹⁰⁴ Yet in a further installment, Pater finds in classical sculpture a disconcerting prescience that calls into question the premises of *Blackwood's* defence of the nude. If the conditions of legitimate viewing are predicated on Hellenic ideals, then Pater undermines these conditions by showing their classical foundation to be less than stable.

The order of repose and the turmoil of conflict that Pater places in diachronic proximity are also conceptually present in the physicality of nude sculpture. Rarefied into allegory, it is nonetheless the most concrete and materially present of the arts, its three-dimensionality intruding into the viewer's space.¹⁰⁵ Purity of form, symbolised by the smooth surface and whiteness of marble, abjures what Michael Hatt calls 'the messy interiority of the human form,' yet this 'messy interiority'—the body's corporeality, its biological functions, and its psychic processes—is never fully expunged from the viewer's mind.¹⁰⁶ Just as 'colourless abstraction' forebodes the 'fleshless' and 'consumptive,' the marble sculpture in its concrete tangibility foregrounds the human body with its defects and distortions.¹⁰⁷ Arnold's 'Culture,' exemplified by a classical sculpture that suggests its opposite even while representing the ideal, as Pater has shown, rather than being the antidote to 'Anarchy,' contains within it its own undoing.

From this perspective, one might draw a continuity between the mid-century regulatory concerns over social order and the later controversies over the nude. Charles Eastlake's testimony in the 1857 Commission which sought to protect the nation's artistic treasures calls into question the omnipotence of culture. Raising concern that '[i]t is the confined space in which the crowd now moves which is the cause of the evil,' Eastlake implicitly places Culture and Anarchy not so much in

¹⁰⁴ 'Decline of Art' 13.

¹⁰⁵ See Alex Potts for a Freudian reading of the ambivalence of the encounter with sculpture ('Male Phantasy and Modern Sculpture,' *Oxford Art Journal* 15.2 (1992)).

¹⁰⁶ Michael Hatt, 'Thoughts and Things: Sculpture and the Victorian Nude,' Smith, *Exposed* 37-49, 38.

¹⁰⁷ Pater 179.

juxtaposition, but in precarious envelopment.¹⁰⁸ The National Gallery building, both symbol of and vessel for culture, is scarcely able to contain and regulate the seething anarchy of its visitors' movements within. The contradictory projections onto the Victorian nude make it a similarly volatile entity. As it vacillates between high art and lowly gratification according to the viewer, the nude, construed as the epitome of order and serenity, becomes highly unstable itself, notwithstanding the efforts to orderliness by the imposing of mythological, literary, or aesthetic interpretative keys. The defining and inculcating of a purifying gaze intended to preserve the sanctity of the nude—and the concomitant expulsion of a lascivious one—merely render it a site of ontological confusion. The contest fought along class lines between Arnold's 'Culture' and 'Anarchy' in the 1860s is here internalised such that Culture itself, in this confusion, becomes anarchical.

Controversy over the nude in art was thus more complicated than the 'British Matron' affair superficially suggests. While its opponents did indeed seek to suppress these exhibitions, the arguments mobilised in defence indicate a richer cultural history. The displacing of culpability from the work of art onto the viewer, locating obscenity not in the undraped form but in a sensual gaze, suggests that these debates run parallel to developments in the optical sciences. Psychological and physiological studies affirmed that perception was inherently subjective just as the delineation of visual responses to the nude figure presupposed a subjective eye. A neutral gaze purged of bodily desire is only conceptually possible in opposition to its other, a prurient, self-interested gaze. Art exists in opposition to non-art, whether as frivolous pretension, as alleged of Whistler's paintings, or as pornography, as the nude was described by its more inflexible detractors. Yet, as I have shown, these categories and opposites were highly unstable, undermining both strategies of regulation and of resistance, and calling into question the concept of art itself. Within the paradigm of subjective vision, the nude shifts from high art to pornographic depiction according to the beholder. Arnold's Culture, with the classical nude sculpture as its ideal, thus vacillates in a similar manner, making it dependent on the public even while Arnold attempts to tame this public. The simple, adversarial model of censorship is once again proved inadequate.

¹⁰⁸ *Royal Commission on Site for National Gallery* para. 3.

Conclusion

The aim of this thesis was to provide an account of censorship in late Victorian Britain that does not rely on static models. In Chapter One, I identified one difficulty in such a project: that of reconciling, on the one hand, the historical aspect of a nineteenth-century investigation, and on the other, the vibrant theoretical debates that have shaped recent censorship studies. While theoretical developments provide illuminating frameworks for understanding particular instances of censorship, these events also give insights into the theories themselves.

Traditional models present censorship as a struggle between the censor and the censored, yet this narrative of antagonism pitting an aggressor who silences against his voiceless victim is merely one manifestation of censorship. Censorship can alternatively be a process of negotiation, of complicity, or of compromise. Moreover, this narrative presupposes distinctly recognisable categories, yet designations of ‘censor’ and ‘censored’ are at times highly unstable while the boundaries between the two cannot always be maintained. The Duchess in *The Awkward Age*, for instance, is Aggie’s moral guardian yet is herself subject to the gaze of her peers. Nordau employs delegitimizing strategies which are redeployed against him.

Traditional accounts also presuppose a causal logic within a temporal framework: innocence encounters evil and corruption ensues, resulting in a fall. Yet as I showed in the case of science in Chapter Four and the nude in Chapter Six, causality and agency become confounded. If obscenity is variable, depending on the sensibility of its consumer, then the status of science or art, defined in opposite to obscenity, also becomes contingent on its reader or viewer. Causality is reversed: the effect is not of the cultural object on its audience, but of the audience on the object.

Part One of this thesis looked at literary censorship in the greater context of the nineteenth-century political and social milieu. John Stuart Mill's warning against a hostile social censorship is echoed in the literary field by writers condemning an industry operating on a commercial logic. The public en masse is designated agent of censorship, a public that has degenerated from the rational citizenry of the eighteenth-century to the passive dupes of a culture industry as theorised by Jürgen Habermas. The ideal of discursive freedom informing Habermas's public sphere offers a seductive counterbalance to the vagaries of censorship, yet is itself a theoretically tenuous concept. I used Henry James's novels to explore these contradictions and to suggest a way of theorising resistance outside of these idealising communicative structures.

Part Two examined two prosecutions—Henry Vizetelly, for publishing offensive French authors, and George Bedborough, for publishing Havelock Ellis's *Sexual Inversion*—arguing that trials cannot be looked at in isolation of other social, political, and intellectual currents. These various regulatory practices are situated on a continuum of censorships such that explicit means of suppression, such as destruction orders or imprisonment, exist with more productive forms of regulation, such as the processes of subject formation, or less overt but more nebulous apparatuses of control, such as delegitimizing discourses. These censorships operate at times in direct opposition to each other; at other times, they work in conjunction against a common target; or alternatively, they coexist in tenuous caution.

Part Three looked at censorship in the visual realm, specifically, in the regulation of the visual arts. The courtroom contest between Whistler and Ruskin was a struggle over authority, pitting Whistler's aestheticism against Ruskin's moral criticism, articulated as correct ways of seeing. Thus, the debate over freedom of expression—artistic and critical—was also a fight over whose visual paradigm should have primacy. Competing ways of looking were also integral to controversies over the artistic nude. Against allegations of pornographic intent, the nude's defenders sought to recuperate the genre by promoting a legitimate way of viewing, expunging a bodily and lascivious gaze from an idealised contemplative appreciation. This conceptual segregation was arguably a more insidious form of regulation: if obscenity law granted the police power to target offensive images, the

locating of offence in the viewer's gaze placed the viewer's body directly under scrutiny. At issue then was not so much the undraped figure but its public, and underlying discussions about the morality of the nude were anxieties about the composition of this public and who might be the legitimate consumers of art.

We thus return, via the stalwarts of traditional accounts of censorship—obscenity trials and purity activism—to the question of the public raised by Mill. In Mill's writing, there is a deep ambivalence towards this public and he vacillates between notions of a corrigible body of individuals and an uncheckable censorious force. But if the public is the agent of censorship, Mill's attempt to redefine this public by stipulating conditions for membership is equally a form of counter-censorship. A similar concern about the public and audience runs throughout the examples of censorship I have looked at, whether it is the public of semi-educated readers, frenzied acolytes of decadence, or the newly enfranchised. Already, we are far removed from Foucault's understanding of censorship as 'instances of muteness,' for these instances of censorship speak eloquently and revealingly of the anxieties of the period.¹ The public might exercise a 'hostile and dreaded censorship' but the result of this censorship is not paralysis nor silence, but an intricate response of counter-censorships, of appropriations, parodies, inversions, and reversals.²

¹ Foucault, *History of Sexuality* 17.

² Mill, *CW* 18: 264.

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